



DEPARTMENT OF THE NAVY  
VICE CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON DC 20350-2000

IN REPLY REFER TO:

5370  
Ser N09D/0U118202  
06 December 2010

From: Vice Chief of Naval Operations

Subj: STANDARDS OF CONDUCT GUIDANCE

Ref: (a) VCNO Memo 5370 Ser N09D/9U124226 of 16 Dec 09 w/8 encls  
(b) DoD 5500.7-R (Joint Ethics Regulation)

Encl: (1) Principles of Ethical Conduct  
(2) Flag Aides Point Paper  
(3) Enlisted Aides Point Paper  
(4) Use of Government Vehicles Point Paper  
(5) Commercial Air Travel Point Paper  
(6) Military Air Travel Point Paper  
(7) Command Coin Point Paper  
(8) Gifts Point Paper

1. Last December, I forwarded reference (a) to emphasize the importance of ethical conduct and moral accountability as the foundation of our service. As we approach the end of 2010, I would like to revisit this imperative to ensure that you have the necessary information to promote ethical behavior.

2. This memorandum is a starting point for discussions that I expect you to have with your wardroom, personal staff, family, and command. Enclosure (1) is provided as a guide to help you navigate the many and sometimes complex regulations governing ethical conduct. Enclosures (2) through (8) summarize specific ethical topics and are reissued without change from last year.

3. Consider the following as fundamental steps to maintaining ethical standards:

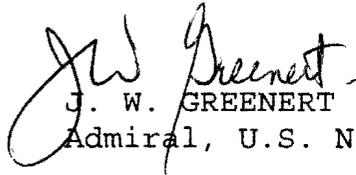
a. First, set a command climate that fosters healthy dialogue and collaborative decision-making on all ethics issues. You need open and frank advice in order to choose the right course of action. Ensure your staff understands you will not tolerate unethical conduct or shortcuts that circumvent safeguards we have in place.

Subj: STANDARDS OF CONDUCT GUIDANCE

b. Second, emphasize the importance of the annual ethics training requirement by completing your training well in advance of the 31 December deadline. Include your personal staff, Enlisted Aides, and spouse in the training. Remember, you are responsible for those who act on your behalf.

c. Third, integrate the advice of your Staff Judge Advocate and Ethics Counselor early in the decision-making process. As part of your personal staff, their job is to assist you in making sound ethical decisions. If your planning process is transparent and rigorous, they will help you work through any legal issues encountered.

4. As I shared with new Flag Officers and members of the Senior Executive Service in October, you must pay close attention to your moral compass, ethical decision-making, and how your decisions are perceived. Ethical behavior is fundamental to our Navy ethos and a successful career as a Flag Officer.

  
J. W. GREENERT  
Admiral, U.S. Navy

Distribution:  
All Flag Officers

## PRINCIPLES OF ETHICAL CONDUCT

1. Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.

3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

4. An employee shall not, except as [provided for by regulation], solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.

9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

## Flag Aides

**Key References:** 5 C.F.R., Part 2635; DOD 5500.7-R (Joint Ethics Regulation [JER])

### **Key Concepts:**

- Flag Aides can be used for official or authorized government purposes only. "Flag Aides" refers to personnel who work in direct support of Flag Officers such as Executive Assistants, Flag Lieutenants, Flag Secretaries, Protocol Officers, Flag Writers, and other enlisted personnel assigned to a Flag Officer's personal staff, with the exception of Enlisted Aides.
- Flag Aides are assigned to enable Flag Officers to perform their official duties more effectively. A Flag Aide may perform duties on behalf of a Flag Officer that the Flag Officer would otherwise be required to perform in the execution of his or her official duties. As a general rule, Flag Aides may not plan or coordinate unofficial personal events, or, perform unofficial personal tasks, even if doing so would give the Flag Officer more time to focus on official business.
- The standard for use of Flag Aides is based on principles contained in the DoD Joint Ethics Regulation that federal employees may not use their public offices for private gain, may not accept gifts (including gifts of time or services) from subordinates except in limited circumstances, and may not misuse government resources.
- The standard for use of Flag Aides is more stringent than the standard governing use of Enlisted Aides. Use of Enlisted Aides, formerly referred to as Personal Quarters Culinary Specialists, is governed by OPNAVINST 1306.3 series, which states that Enlisted Aides may perform duties "reasonably connected" to the Flag Officer's official duties.

**Examples:** The following examples illustrate duties a Flag Aide may, and may not, be asked to perform. This list is not all-inclusive. ***Both Flag Officers and their aides should seek advice from their Staff Judge Advocate or General Counsel*** in cases of uncertainty. ***Ultimately, however, Flag Officers have final responsibility for the proper employment of their Flag Aides.***

### • **Examples of permissible duties:**

- Schedule official appointments.
- Schedule unofficial appointments if reasonably necessary to ensure coordination with the official schedule and the scheduling process for these events involves minimal effort.
- Coordinate with family members to obtain information necessary to avoid conflicts between personal and official travel of Flag Officer.
- Schedule medical appointments for Flag Officer.
- Act as aide or escort for spouse or family member accompanying Flag Officer in an approved, representational role, while the spouse or family member is actually performing representational duties.
- Assist family members and friends as necessary to facilitate their attendance at official ceremonies honoring the Flag Officer, e.g., assistance with entry to the military facility or escort within the installation to ensure such guests reach the proper location.

**ENCLOSURE (2)**

## Flag Aides (cont.)

- o Such assistance must comply with existing regulations on use of official vehicles.
  - o Maintain and write checks from a checking account, funded by the Flag Officer, for expenses incurred by the Flag Officer that arise from official duties (e.g., paying a restaurant bill while on official travel) or are closely related to official duties (e.g., purchase ball caps or command coins where appropriated funds may not be used.) Aides may not deposit their own money in such accounts even if the Flag Officer subsequently reimburses the aide.
  - o Supervise Enlisted Aide in performance of their duties.
  - o Pick up meal from an official mess.
  - o If it is determined to be an appropriate use of a GOV, Flag Aide may pick up Flag Officer in GOV at airport upon return from official travel for transportation to official place of duty or residence. (Note: Special rules apply to use of government vehicles at public air terminals in the National Capitol Region.)
  - o While on temporary duty outside the area of the permanent duty station, a Flag Aide may perform certain tasks that would not be permissible at the permanent duty station. Such tasks should relate to the duties, health, or subsistence of the Flag Officer, and take into account the Flag Officer's schedule. For example, the aide may drive the Flag Officer from quarters to work, or to a gym, laundry facility, or restaurant. The aide may also go to the exchange to purchase uniform items needed by the Flag Officer prior to a morning meeting. On the other hand, the aide should not be sent to purchase uniform items when the Flag Officer has an afternoon free and can walk or drive to the exchange.
- **Examples of impermissible duties.** Flag Aides may not provide personal services to Flag Officers or their families, except as provided below under the paragraph "Minor Voluntary Services," which identifies limited occasions when performance of such services is acceptable. Generally, personal services are unofficial and therefore beyond the scope of the Flag Aide's duties. Examples of impermissible personal services include:
- o Pick up or drop off Flag Officer at home while car is being repaired.
  - o Provide local transportation for Flag Officer in aide's POV, e.g., drive Flag Officer home from office at end of workday.
  - o Repair Flag Officer's POV or other personal property.
  - o Pick Flag Officer up at airport upon return from unofficial travel.
  - o Draft Flag Officer's personal correspondence.
  - o Prepare Flag Officer's income taxes.
  - o Run personal errands for the Flag Officer while in area of permanent duty station, such as picking up dry cleaning, taking car to service station, bringing his or her lunch from a commercial establishment to the office.
  - o Participate in packing or unpacking the Flag Officer's personal property, moving furniture, or supervising movers, pursuant to the Flag Officer's PCS move. (Enlisted Aides may permissibly perform some of these functions.)
  - o Accompany Flag Officer and collect per diem while Flag Officer is taking leave in conjunction with TAD travel, except when the Flag Aide is performing official duties (which does not include mere personal services). The Flag Aide also could take leave.
  - o Schedule and/or coordinate personal events for family members,

## Flag Aides (cont.)

including medical appointments. Assist Flag Officer's family members with personal business (e.g., pet care, private lessons, childcare, etc.).

- o Plan a party for or on behalf of spouse or family member.
- o Schedule transportation and lodging for unofficial travel of family members unless family members are actually accompanying the Flag Officer and family members' scheduled flight and lodging reservations are identical to the Flag Officer's official itinerary. Adding family members to the itinerary must be completely incidental.
- o Transport or escort Flag Officer's unofficial visitors.
- o Do personal shopping for Flag Officer or family.

- **Minor Voluntary Services.** Flag Aides may perform personal services for the Flag Officer if such services are:

(1) Rare - provided on a one-time-only or **very** infrequent basis; and,

(2) Minor - of short duration and minimal value. (Note: With limited exceptions, the Joint Ethics Regulation forbids seniors from accepting any gift from a subordinate with a fair market value over \$10.00. If an aide voluntarily performs a service that could reasonably be said to have a fair market value greater than \$10.00, the aide may perform the service if compensated at fair market value by the Flag Officer. An aide may not be compensated for voluntary service that takes place during normal duty hours.); and,

(3) Truly voluntary - whether a service is "truly voluntary" depends on the surrounding facts and circumstances. Factors include, but are not limited to: originator of the idea for the service (Flag Officer or aide), extent to which the service causes aide to modify ordinary routine or plans, whether the service is provided incidental to an activity the aide will perform anyway, and the aide's perception and description of the service as well as freedom to decline to perform the service.

Acceptable examples of uncompensated services could include, but are not limited to: Flag Officer's car is in the shop, and aide offers Flag Officer a ride home, which is on the way to, or very near, the aide's home; aide goes to the store for herself and offers to get an item for the flag officer; or, aide prepares an item of simple, personal correspondence for Flag Officer. To be permissible, each of these examples, and all other similar services, must satisfy the three-part test of rare, minor, and truly voluntary.

**Caution:** While an offer may meet the criteria of rare, minor, and voluntary, often it is in the Flag Officer's best interest to reject the offer as the criteria are difficult to show after the fact and because the assistance may create the appearance of favoritism and/or fraternization.

## Enlisted Aides

(formerly known as Personal Quarters Culinary Specialists [PQCS])

References: DoDI 1315.09; SECNAVINST 1306.2D; OPNAVINST 1306.3B

<u>PERMISSIBLE DUTIES</u>	<u>IMPERMISSIBLE DUTIES*</u>
<ul style="list-style-type: none"><li>• Clean and maintain all rooms within assigned quarters, to include vacuuming, dusting, and minor repairs and maintenance.</li><li>• Minor grounds keeping including mowing, raking, watering and general yard policing.</li><li>• Minor tasks/errands such as picking up flag officer's dry cleaning, prescription drugs, etc. - task or errand must not be prohibited by DoD or DON regulations.</li><li>• Plan, prepare for, and conduct official or command-related social functions (e.g., change of command dinners, command parties, and receptions for official guests).</li><li>• When flag officer is present, may purchase, prepare, and serve food &amp; beverages in quarters for flag and family (three meals, snacks, and cleanup).</li><li>• Clean/press flag's uniform.</li><li>• Answer phone, take messages, keep phone records, and receive official visitors.</li><li>• Provide security for quarters.</li></ul>	<ul style="list-style-type: none"><li>• Cleaning does not include making beds, organizing personal property, or other tasks solely for personal benefit.</li><li>• Grounds keeping other than minor tasks or repairs.</li><li>• Assisting in planning or conducting personal social events (e.g., spouse's birthday party, family reunion).</li><li>• Running private errands such as chauffeuring flag's family in POV, packing for a family trip, shopping for a personal gift, or washing/refueling POV.</li><li>• Private laundry services.</li><li>• Personal calls for flag's dependents.</li><li>• Infant, child, or special needs family member care.</li><li>• Pet Care.</li></ul> <p>These are examples of "Do's and Don'ts". This is not an all-inclusive list.</p>

### Key concepts:

- 1) Enlisted Aides are authorized for the purpose of relieving flag officers of those minor tasks and details that, if performed by the officers, would be at the expense of their primary official duties.
- 2) Enlisted Aides are not to be confused with other types of Flag Aides (Mess Management Specialists, Flag writer, Flag Secretary, etc.). As a general rule, Flag Officers may utilize Enlisted Aides for duties that have a "reasonable connection" with that officers military and official duties. Duties are reasonably connected if they contribute in any way to the accomplishment of an official function of the Flag Officer.
- 3) Flag officer alone is responsible for determining whether duties assigned to enlisted aides are reasonably connected to the officer's military official duties. Flag officer is solely responsible for supervision, direction, and performance of duties of enlisted aides.

**ENCLOSURE (3)**

## Enlisted Aides (cont.)

**\*Voluntary Paid Services:** Flag officers may employ enlisted aides during their off-duty hours on a voluntary, paid basis to perform duties that are not authorized to be performed by the enlisted aides in a duty status. Pay should be "reasonable and commensurate" with services rendered. See section on Minor Voluntary Services for more details.

**Social Functions:** A flag officer may use enlisted aides to support social functions that are reasonably connected to the flag officer's military and official duties and responsibilities. The below factors may be considered in determining whether use of an Enlisted Aide is proper to support a social function. Not all the factors need be present, nor should any single factor alone be conclusive.

- The primary focus of the event is the transaction of official business.
- The event is intended to improve morale, promote esprit de corps, and develop inter-personal relationships among command members and their families.
- Dignitaries, civic/community leaders, or senior military personnel attend as official invitees.
- Personnel attend in uniform.
- Flag officer considers it part of his/her duties to host the social function.
- The event is held at the flag officer's public quarters or other government location.
- No fee is charged for attendance.

**Role of the Spouse:** While a flag officer retains sole responsibility for use, supervision, direction, and performance of enlisted aides, it is appropriate for a flag officer's spouse to collaborate closely with enlisted aides during planning and execution of official social functions authorized by flag officer, should the spouse so desire. In most cases, a flag officer must be present at a function to justify use of enlisted aides. A rare exception to this rule is when the flag officer's spouse hosts a function in the absence of the flag officer, and the flag officer determines that the spouse's role in executing the function has a reasonable connection to the flag officer's official duties and responsibilities.

**Minor Voluntary Services:** Enlisted aides may perform gratuitous personal services for the flag officer if such services are:  
(1) Rare - provided on a one-time-only or very infrequent basis; and,  
(2) Minor - of short duration and minimal value (less than \$10.00); and,  
(3) Truly voluntary - whether a service is "truly voluntary" depends on the surrounding facts and circumstances. Factors include, but are not limited to: originator of the idea for the service (flag officer or aide), extent to which the service causes aide to modify ordinary routine or plans, whether the service is provided incidental to an activity the aide will perform regardless, and the aide's perception and description of the service and freedom to decline to perform the service.

**Permissible examples:** Flag officer's car is in the shop, and aide offers flag officer a ride home, which is on the way to, or very near, the aide's home; or, aide goes to the store for herself and offers to get an item for the flag officer.

**Caution:** While an offer may meet the criteria of rare, minor, and voluntary, often it is in the flag officer's best interest to reject the offer as the

### **Enlisted Aides (cont.)**

criteria are difficult to show after the fact and because the assistance may create the appearance of favoritism and/or fraternization.

## Use of Government Passenger Motor Vehicles

(\*\*\*These are illustrative "DO's & DON'Ts" examples - These are not exhaustive lists\*\*\*)

Key References: 31 U.S.C. 1344; 10 U.S.C. 2637; 41 CFR part 102-5; 41 CFR part 102-34, subpart D; DODD 4500.36; DOD 4500.36-R; JFTR ¶ U3200/JTR ¶ C2050; JTR ¶ C2102E; JFTR ¶ 3415G

### Key Concepts:

- Government passenger motor vehicles (GOVs) are for official use only. Whether a particular use is "official" is a matter of administrative discretion. All factors must be considered including whether the use is essential to the successful completion of a DOD function, activity, or operation, as well as consistent with the purpose for which the motor vehicle was acquired.
- When questions arise about the official use of a motor vehicle, the questions shall be resolved in favor of strict compliance with statutory and regulatory provisions.
- A guest of an employee authorized use of GOV may accompany the employee on a space-available, no-increased-cost basis. The vehicle size may be no larger than necessary.
- TDY: GOVs may be used between lodging and duty sites if public/commercial transportation is inadequate. Additionally, if public transportation is not available or impractical, GOVs may be used for subsistence, comfort, and health. This authority does not include entertainment or recreation.
- Rental vehicles are considered "special conveyances" under the JFTR. As such, the current rules allow use only for official purposes, to include those for subsistence, comfort, and health while TDY.
- Home-to-Work (HTW): Use of a GOV for HTW travel is prohibited unless specifically authorized. Within DON, SECNAV, CNO, and CMC are authorized HTW. Additionally, SECNAV<sup>1</sup> may authorize employees HTW when (1) essential due to highly unusual circumstances presenting a clear and present danger; (2) an emergency exists; (3) other compelling operational considerations make HTW essential to conduct business; (4) essential for safe/efficient performance of intelligence, protective services, or law enforcement; or (5) required to perform field work. Authorization must be in writing.
- Home-to-Airport: When in a TAD status, use of GOV from home to airport or airport to home may be authorized. The agency or installation head must make the determination, pursuant to DOD 4500.36-R, Chapters 2 and 4. Note: In the National Capital Region, authority is further restricted.
- Overseas: Outside the United States, unified combatant commanders may provide Government transportation, including HTW, for employees and their dependents when public/private transportation is unsafe or is unavailable.

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<sup>1</sup> This authority is not delegable and is limited to an initial period of 15 days, renewable for up to 90-day increments for as long as required by the circumstances.

**ENCLOSURE (4)**

### Permissible Uses

- Official business (e.g., making rounds of area work sites, attending a meeting, officially participating in a ceremony).
- Speaking or otherwise participating in an official capacity in an event.
- Traveling from place of duty to after-hours official functions. GOV must return to place of duty.
- Transporting the employee's guest with the employee, at no increased cost, to an official function.
- Transporting prospective recruits for interviews/processing/orientation.
- Going to the dry cleaners, barber, drugstore, or a local restaurant while TDY.
- When in doubt, consult counsel.

### Impermissible Uses

- Going to a private social function (e.g., unofficial birthday ball, hail and farewell, private dinner party).
- Attending a widely attended gathering (WAG), which one does in a personal capacity.
- Transporting employees not authorized HTW from home to an official function, or from the official function to home (impermissible even when the travel distance is less than from work to the official function).
- Doing personal errands/business (e.g., going to the bank or a drive-through).
- Going to the movies or bowling alley while on TDY

## Commercial Air Travel

Key References: 41 CFR part 301-10; DODD 4500.09E; DTR 4500.9-R; JFTR U3125/JTR C2204; JFTR U1200/JTR C1200; DepSecDef memo of 19 Mar 04; OPNAVINST 4610.8G; OPNAVINST 4650.15A; CNO Memo Ser N09BL/4U6681159 of 21 Jul 04

### Key Concepts:

- For official travel, members generally must travel in coach class accommodations on commercial airlines.
- Use of premium class accommodations (business/first class) is authorized only as noted below and, absent extenuating circumstances or emergency situations, should be approved in advance.
  - Business class:
    - Only premium class is offered between origin/destination;
    - The travel is so urgent it may not be postponed, and there is no space in coach on a flight in time to accomplish the mission;
    - A doctor validates medical necessity of premium class travel to accommodate member's disability/physical impairment;
    - Upgrade necessary for exceptional security circumstances making it essential to successful performance of the mission;
    - Accommodations on foreign carriers do not provide adequate sanitation or do not meet health standards;
    - Overall Government savings (avoiding extra subsistence costs, overtime, lost productive time, etc.);
    - Frequent flyer miles used to obtain flight;
    - Non-Federal entity funds as gift of travel; or
    - Travel between CONUS and OCONUS en route to TDY where flight time (including stopovers) is greater than 14 hours. This **does not** automatically qualify for premium class travel; instead, the following factors must be present:
      - Either the origin or destination point is OCONUS;
      - TDY purpose/mission is so urgent it cannot be delayed or postponed; and,
      - The scheduled flight time (including stopovers) is in excess of 14 hours.
        - Passenger is not afforded an adequate rest period before commencing duties.<sup>1</sup>
        - Scheduled flight time is the time between the scheduled airline departure from the PDS/TDY point until the scheduled airline arrival at the TDY point/PDS.
  - First class:
    - Lower class accommodations are not reasonably available;
    - Exceptional security requirements exist;
    - A doctor validates medical necessity of first class travel;
    - First class is the only accommodation provided between origin and destination; or,
    - Frequent flyer miles used to obtain flight.
  - Given the public appearance to the taxpayer, officers using premium class generally should not travel in uniform.

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<sup>1</sup> The traveler must make every effort to schedule his/her travel so he/she has a rest period prior to starting work. Premium class travel should be the exception, not the rule, for flights over 14 hours.

**ENCLOSURE (5)**

## Military Air Travel (MILAIR)<sup>1</sup>

**Key References:** DOD 4515.13-R; DODD 4500.56 of 14 Apr 09; OMB Circular A-126; SECNAV memo of 3 Sep 09; CNO memo Ser N00/100082 of 17 Sep 09; CNO memo Ser N00/100083 of 17 Sep 09; VCNO memo Ser N09D/9U124212 of 23 Nov 09

### **Key Concepts:**

#### **• Required Use Travel:**

- o **Tier 1.** Required use travelers for official and unofficial travel: SECDEF; DEPSECDEF; Chairman of the Joint Chiefs of Staff (CJCS); Vice CJCS, when acting as CJCS.
- o **Tier 2.** Required use travelers for official use only:
  - Includes Secretaries of the Military Departments; Chiefs of the Military Services; Vice Chiefs of the Military Services (when acting as Service Chief); Commander, International Security Assistance Force - Afghanistan (U.S. Only); Commander, Multi-National Force - Iraq; Commander, United States Forces Korea; Commanders of the Combatant Commands; Deputy Commanders of Combatant Commands, when designated in writing as Combatant Commander by SECDEF.
  - Unofficial travel in very limited cases and only upon advance notification to and approval by SECDEF.
- o **Tiers 3 and 4.** Officials are not "required use" travelers, but they may use MILAIR for official travel only, and only when the exigencies of their travel needs prevent the use of commercial aircraft.
  - Exigencies may include the need to maintain secure communications and the need to maintain a specific schedule.
  - Tier 3 and 4 travelers include Commander, Fleet Forces Command; Commander, U.S. Naval Forces Europe; Commander, U.S. Pacific Fleet; Director, Naval Nuclear Propulsion; Vice Chiefs of the Military Services, except when acting as Service Chief; Deputy Commanders of Combatant Commands, except when acting as Combatant Commander.
  - Travelers must sign their own requests.
  - Must submit requests to VCNO or the appropriate Combatant Commander, but VCNO must submit requests for MILAIR to CNO.

#### **• Other Official Travel:**

- o Individuals outside Tiers 1-4 may only use MILAIR for official travel when
  - Neither COMAIR nor airlift service offers reasonably available flights. Reasonably available means the flight effectively fulfills mission requirements and meets the traveler's departure and arrival requirements within 24 hours.
  - Highly unusual circumstances present a clear and present danger;
  - An emergency exists;
  - MILAIR is more cost-effective than COMAIR or chartered air; or
  - Other compelling operational considerations make COMAIR unacceptable.
- o Requesters must document
  - Whether commercial service is reasonably available; and
  - The valid official reason for use of MILAIR, other than personal convenience; and
  - Other appropriate factors, i.e.:
    - o Specific scheduling requirements and why schedule cannot be changed
    - o Whether secure communications are required

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<sup>1</sup> Use of MILAIR is carefully scrutinized and subject to a number of regulations. Consult an ethics counselor to ensure proper application of the rules to specific facts.

**ENCLOSURE (6)**

- o If cost effectiveness is the rationale, the traveler must provide a cost comparison between MILAIR and COMAIR. The cost of rental cars, lodging, and per diem required may be factored in the cost comparison.
- o The senior traveler must sign the request for use of MILAIR, and signature authority may not be delegated.
- o Requests must be submitted to Vice Chief Naval Operations; Commander, U.S. Fleet Forces Command; Commander, U.S. Pacific Fleet; Commander, U.S. Naval Forces Europe; or Director, Navy Staff.
- **Unofficial Travel:**
  - o All unofficial travel requires full reimbursement of full coach fare.
  - o Includes travel by a family member, non-DOD civilian, or non-Federal traveler accompanying a senior officer traveler on official business on an aircraft already scheduled for an official purpose.
  - o Unofficial travel must occur on a non-interference basis with only negligible additional costs to the Government.
  - o Unofficial travelers must have an invitational travel authorization (ITA) and must reimburse the Government full coach fare for the flight.
  - o Approval of ITAs - VCNO; Commander, U.S. Fleet Forces Command; Commander, U.S. Pacific Fleet; Commander, U.S. Naval Forces Europe; and Director, Navy Staff are authorized to approve ITAs.
    - Commanders may further delegate this approval authority in writing, but the authority to approve ITA travel for family members may not be delegated below their respective Chief of Staff or equivalent level.
    - 4-star flag officers and certain 3-star flag officers serving as overseas or combined commanders may approve transportation, per diem, and/or other expense allowances for their spouses on a case-by-case basis and may personally sign their ITAs.
    - Requests for family member travel with funding for per diem and/or other expense allowances must clearly demonstrate that travel is essential to accomplishing the mission and must include evidence of the benefit to DOD beyond fulfilling a representational role.

## Command Coins

Key references: 31 U.S.C. 1301; 10 U.S.C. 1125; DODI 7250.13; SECNAVINST 3590.4A; SECNAVINST 7042.7K; 5 U.S.C. 4503; 5.C.F.R. 2635.203(b)(2).

### **Key concepts:**

- Appropriated funds (APF) may only be used for authorized purposes. 31 U.S.C. 1301(a). Absent specific authority, an expenditure using APF is prohibited. Consequently, a command may expend APF to purchase command coins only as a means to recognize outstanding performance and as a component of the command's provision of official courtesies.
  
- Awards. Expenditure of APF to purchase command coins to award meritorious service is permissible. 10 U.S.C. 1125 and 5 U.S.C. 4503 authorize DoD to award medals, trophies, badges, and similar devices for excellence in accomplishments. Presentation of a coin qualifies as an award when given for outstanding performance, specific achievement, or a unique achievement that contributes to command effectiveness. SECNAVINST 3590.4A. Because command coins provided in this context should bear the characteristics of other command awards, the coins should be limited in number, accounted for in a written record, and not personalized with the commander's name.
  
- Official Representation Funds (ORF). SECNAVINST 7042.7K (ORF Guidelines) provides that ORF may be used to purchase mementos that have a command or official theme. Coins having a command or official theme qualify as appropriate mementos. Generally, a command may offer mementos not exceeding \$335 to foreign dignitaries or other prominent citizens (non-DOD personnel).<sup>1</sup> A command also may offer mementos not exceeding \$40 to prominent visiting DoD officials.<sup>2</sup>
  
- Private Funds. Coins given as gifts, tokens of appreciation, recognition of routine performance of duty, or to instill unit pride are not awards. Coins used this way cannot be purchased with APF, but rather should be purchased using private funds. Coins purchased with private funds may be personalized with the donor's name and there are no restrictions on the use of such coins. In using these funds, a commander is not bound by the restrictions discussed above (other than that of good taste).

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<sup>1</sup> See paragraph 8b, SECNAVINST 7042.7K. See 73 Fed. Reg. 7475 for adjustment of threshold from \$305 to \$335. See paragraph 6 and enclosure (1) for a description of foreign dignitaries and other prominent citizens authorized to receive official courtesies under the instruction.

<sup>2</sup> See paragraph 8b(7), SECNAVINST 7042.7K. See paragraph 6a(5) and enclosure (1) for a list of prominent DoD officials authorized to receive official courtesies under the instruction.

**ENCLOSURE (7)**

## Gifts

**Key References:** DoD 5500.7-R; 5 CFR § 2635; 5 U.S.C. 7342, 7351 & 7353; 10 U.S.C. 2601 & 2608; 31 U.S.C. 1353; DoDD 1005.13; SECNAVINST 1650.1H; SECNAVINST 4001.2H; OPNAVINST 4001.1E

### Key Concepts:

- The basic rule: An employee shall not solicit or accept, directly or indirectly, a gift from a prohibited source or given because of the employee's official position.
- Prohibited source: Any person or entity that: is seeking official action by the employee's agency; does or seeks to do business with the employee's agency; is regulated by the employee's agency; has interests that may be substantially affected by the employee's official duties; or is an organization a majority of whose members fit into one or more of these categories.
- Official position: The test is whether the gift would have been given had the employee not held the status, authority, or duties.
- Indirect gifts include gifts to a spouse, child, parent, sibling or dependent relative or any other person including a charity on the basis of designation, recommendation, or other specification by the employee.

### Gift Definition

The term "gift" is broadly defined and includes any gratuity, service, discount, entertainment, hospitality, or other item having monetary value. It includes meals, lodging, transportation, and training. The term "gift" does not include:

- Coffee, donuts, or other refreshments not intended to be a meal.
- A "presento" of little intrinsic value (card, plaque, certificate).
- Commercial benefits available to the general public or class of all Government employees/military personnel.
- Anything for which the employee pays fair market value.
- Anything accepted by the Government in accordance with agency gift acceptance statutes (e.g., gifts to enlisted members, gifts of travel).
- Anything paid for by the Government or secured by the Government under Government contract.

### Common Exceptions to Prohibition against Accepting Gifts from Outside Sources

- Gifts of \$20 or less: Unsolicited gifts (NOT cash) with a market value of \$20 or less per source and per occasion are permissible so long as the total value of all gifts received from a single source during a CY does not exceed \$50.
- Gifts based on a personal relationship are permissible.
- Gifts from foreign governments: Employees may accept a gift (or combination of gifts) of "minimal value" (retail value in the US of \$335) if given and received as a courtesy from a foreign government. Gifts exceeding \$335 may be accepted on behalf of the US, but special rules and procedures apply.
- Awards: Employees may accept gifts that are a bona fide award (or incident to such an award) from a person who does not have interests that may be substantially affected by the performance (or non-performance) of the employee's official duties. An ethics counselor must approve cash/gifts in excess of \$200.
- Discounts: Employees may accept discounts offered by a non-prohibited source to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of type of official responsibilities or on a basis that favors those of higher rank or rate of pay.
- Widely Attended Gatherings: Employees may accept a gift of "free attendance" from the sponsor of a "widely attended" gathering if the employee's agency determines that employee's attendance is in the interest of the agency (i.e.,

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attendance will further agency mission). A gathering is "widely attended" if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present. Other special rules and procedures apply to this exception.

### Gifts between Employees

- General Rule: Employees cannot accept a gift from a lower paid employee, unless they have a personal relationship and they are not in superior-subordinate relationship. Employees cannot give a gift to an official superior.
- Exceptions: On occasional basis, including traditional gift-giving occasions, such as birthdays and holidays, the following may be given by a subordinate and accepted by a superior:
  - o Items (NOT cash) with value of \$10.00 or less per occasion (e.g., card).
  - o Food and refreshments consumed at office.
  - o Personal hospitality at subordinate's home of a type and value customarily given by the subordinate to personal friends.
  - o Item given by a subordinate in connection with the receipt of personal hospitality from a superior if of a type and value customarily given on such occasions (e.g., a hostess gift of a \$15 bottle of wine).
- Special, Infrequent Occasions
  - o Subordinate may give a gift or donate toward a group gift for superior, and superior may accept gift on special, infrequent occasions such as marriage, illness, birth of child, or upon termination of superior-subordinate relationship, such as transfer, resignation, or retirement. Promotion does not qualify for this exception.
  - o Solicitations for group gifts may not exceed \$10 per person, but the employee is free to donate more. All donations must be voluntary. Group gift(s) given on special, infrequent occasions are limited to \$300.

**\*\*\*Consult with your Staff/Force Judge Advocate or General Counsel\*\*\***