

CAUTIONARY GUIDANCE & DISQUALIFICATION STATEMENT (SGE)

Welcome to the Office of the Secretary of Defense! Special government employees (SGEs) provide critical expertise to enable the Department to accomplish its mission. However, as experts, many SGEs have outside interests that may pose potential conflicts of interest or related ethics issues and it is important to address these early to avoid negative impact to the individual and to the Department.

The below cautionary guidance and disqualification statement are key tools in preserving the integrity of the Department's processes and addressing potential conflicts before a violation occurs. The cautionary guidance below covers the most common sources of potential conflicts of interest but is not exhaustive. We encourage you to thoroughly review the cautionary guidance and contact the DoD Standards of Conduct Office at osd.soco@mail.mil or 703-695-3422 should you have any questions or concerns.

I. Cautionary Guidance.

- a. *Criminal Conflicts of Interest:* As a SGE you are subject to the criminal conflict of interest statute at 18 U.S.C. § 208. Specifically, under Section 208(a), you are prohibited from participating personally and substantially in any particular matter that has a direct and predictable effect on your actual or imputed financial interests or the class of entities to which such entity belongs. The interests of the following persons are imputed to you:
 - i. Spouse
 - ii. Minor children
 - iii. General partners
 - iv. Any organization in which you serve as an officer, director, trustee, general partner, or employee
 - v. Any person or organization with which you are negotiating or have an arrangement concerning prospective employment.

- b. *Stock Holdings:* If you, your spouse, and/or your minor child collectively own more than \$15,000 of stock in any entity, you have a conflict of interest related to that entity. For your reference, a list of DoD contractors can be found at <https://dodsoco.ogc.osd.mil/ETHICS-TOPICS/Conflicts-of-Interest/>. Note that this list only represents a "snapshot" in time and is not exhaustive. Additionally, DoD contractors are not the only entities that may pose conflicts, and it is your responsibility to monitor your financial interests throughout the year for any potential conflict with your official duties.

Also, if you own more than \$15,000 in any holding company (such as Berkshire Hathaway), you have a potential conflict of interest not only with the parent company, but with any entities in which the parent company holds a controlling interest. For example, if the cumulative value of your shares in Berkshire Hathaway exceeds \$15,000, you have a potential conflict of interest with any company in which Berkshire Hathaway holds a controlling interest.

- c. *Sector Mutual Fund or Sector Exchange Traded Fund (ETF):* If your cumulative fund holdings in any one sector exceed \$50,000, then you have a criminal conflict of interest related to any company held within those sector funds, except companies that are outside of the stated sector. For example, if you hold interests in pharmaceutical sector funds valued greater than \$50,000, you have a conflict with each pharmaceutical company held within those funds, but not with an energy company held within the fund.
- d. *Private Investment Funds:* To the extent you are invested in private investment funds, you have a criminal conflict of interest that will prohibit you from participating personally and substantially in any particular matter that has a direct and predictable effect on the fund itself and the underlying assets of the fund.

- e. *Outside Employment:* To the extent that you continue to serve as an officer, director, trustee, general partner or current/prospective employee for any non-Federal entity, you are prohibited from participating in matters involving or affecting that entity and the class of entities to which the entity belongs. Below are general rules regarding activities with entities outside of the Federal government (even if unpaid):
 - i. You may not use your public office (authority or title) for the private gain of an outside entity.
 - ii. You may not make unauthorized use of official time or Government property for your activities with an outside entity.
 - iii. You may not give the appearance that DoD sanctions or endorses any outside entity or its services/products/activities.
 - iv. You may not use or improperly disclose any non-public information, including sensitive, classified, or otherwise protected information acquired as part of your official duties and which is not generally available to the public.

- f. *Prior employment:* If, within the last two years, you served as an employee of a non-Federal entity. For two years after serving in that position, you may not participate in matters in which those entities are or represent a party, unless you first receive written authorization. To the extent you served as a consultant (and not an employee) to these entities, this restriction will only last for one year after serving in that role. *See Section 1117 of the 2022 National Defense Authorization Act and 5 C.F.R. § 2635.502.*

- g. *Spousal Employment:* If your spouse is employed by a non-Federal entity, you have a conflict of interest related to that entity. Specifically, you are prohibited from participating personally and substantially in particular matters that you know will affect your spouse's continued employment, salary, and benefits. You should also be aware that under the ethics regulations you have a "covered relationship" with a person/entity for whom your spouse, parent or dependent child is, to your knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee. You may not participate in matters involving such an entity unless you first receive written authorization. 5 C.F.R. § 2635.502.

- h. *Virtual Currency:* If you own any amount of virtual currency, you may not participate in a particular matter if you know that particular matter could have a direct and predictable effect on the value of the virtual currency.

- i. *Representational Prohibitions:*
 - i. *Representing Others:* As a SGE, please be aware that if you serve more than 60 days as a SGE during the immediately preceding 365 day period you are subject to certain criminal representational bans that prohibit you from representing any individual or non-Federal entity to the Executive and Judicial Branches of the Government on particular matters involving specific parties (e.g. contracts) that are pending in DoD. 18 U.S.C. §§ 203, 205. *See attached SGE Guide for additional details.*
 - ii. *Representing DoD:* Speaking on behalf of the Department is considered an inherently governmental function to be performed only by full-time DoD employees. Should you receive a request for an interview or to speak publicly as a DoD SGE, you should refer these invitations to your DoD leadership.

II. Disqualification Statement

I understand that my appointment by the Department of Defense is a public trust and that I may not participate in certain particular matters in which I have a financial interest or a covered relationship. In connection with my duties as a SGE, I am disqualified from participating personally and substantially in:

1. Any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver or qualify for a regulatory exemption. (18 U.S.C. § 208) This includes, but is not limited to, matters affecting the interests of:
 - a. Entities in which I, my spouse, or my minor child(ren) have any actual or imputed financial interests or the class of entities to which such entity belongs, regardless of whether or not such interest is required to be listed on my financial disclosure form(s); and
 - b. Any organizations in which I serve as an officer, director, trustee, general partner or employee.

2. Any particular matter matters where an entity or individual with whom I have a covered relationship is a party or represents a party to the matter, as defined in 5 C.F.R. § 2635.502. I understand that covered relationships include, but are not limited to:
 - a. Any entity or individual with whom I have/seek a business, contractual or other financial relationship other than routine consumer transactions;
 - b. Any family member with whom I have a close personal relationship;
 - c. Any employer or client of my spouse or dependent child(ren).
 - d. Any former employer or client of mine within the last year.
 - e. Any entity (other than a political party) in which I am an active participant beyond merely paying dues/donating funds.

3. Any particular matter involving specific parties in which my former employer is a party for a period of two years from the date I last served in a covered position (officer /employee) with the former employer. Section 1117 of the 2022 NDAA.

I have reviewed the general cautionary guidance provided above. If I am asked to work on matters that could affect my financial interests, I will immediately recuse myself and contact my DoD leadership and the Standards of Conduct Office for further guidance.

Science, Technology, and Innovation Board (STIB)

Name of Advisory Board/Committee or Appointing Organization

Printed/Typed Name of Filer

Signature

WET INK SIGNATURE ONLY

DATE