



GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

APR 16 2007

MEMORANDUM FOR Alternate and Deputy Designated Agency Ethics Officials

SUBJECT: Designation of Deputy Designated Agency Ethics Officials and Delegation of Authority UP the Joint Ethics Regulation (JER), DOD 5500.7-R

1. Reference: my memorandum, dated January 3, 2007, subject as above.
2. My intent in the referenced memorandum was to decentralize and “power down” ethics authorities and responsibilities in the Army – to encourage initiative and creativity and generally to provide comparable levels of authority and responsibility to the Deputy Designated Agency Ethics Officials (Deputy DAEOs) for your respective organizations. To ensure consistency and continuity in coordinating with the Office of Government Ethics, granting OGE Form 450 exclusions, and taking action in regard to certain other matters requiring consistency across the Department, I designated certain functions that will be performed centrally by the Deputy General Counsel (Ethics & Fiscal) (DGC (E&F)) (paragraph 5, reference) and The Judge Advocate General (paragraph 6).
3. Questions have arisen in several areas that were previously centrally managed by the DGC (E&F). This memorandum further clarifies my guidance in these areas.

a. Co-Sponsorship Agreements UP JER, subsection 3-206. The DGC (E&F) memorandum, dated September 9, 2005, requiring all co-sponsorship agreements, Army-wide, to be reviewed and approved by DGC (E&F), is rescinded. Co-sponsorship agreements must be reviewed and approved by each Deputy DAEO. I do, however, commend to each of you the standards set out in the DGC (E&F) memorandum of September 9, 2005 and the attached template for agreements. The abuses cited in that memorandum continue, and I charge each of you to be vigilant to ensure that only co-sponsorships meeting all the requirements in JER 3-206 are approved. When the non-Federal entity “co-sponsor’s” role is limited to providing administrative support such as securing conference facilities, collecting registration fees, and other ancillary logistical support services to our conference, while providing no substantive contributions, a co-sponsorship arrangement is inappropriate. A contract UP 10 U.S.C. § 2262 may be appropriate in these circumstances.

b. Logistical Support UP JER, subsection 3-211. Many commercial, for-profit firms are planning and organizing conferences that feature speakers from the military departments, defense agencies, and the Office of the Secretary of Defense. The JER

provides that logistical support may be provided if no admission fees are charged “(beyond what will cover the reasonable costs of sponsoring the event)” for that portion of the event supported by DoD, or the DoD support is incidental to the entire event under public affairs guidance. Support is significant when the majority of speakers are DoD personnel. DoD and the Army have attempted to provide some benchmarks for fees that will be deemed “reasonable” under the JER standard without further analysis. DoD has set that mark at \$500 per person per day for events in the National Capitol Region. The Army had set that mark at \$300 per day. To encourage consistency, I am adopting the DoD standard, but I ask each of you to scrutinize commercially sponsored conferences using many DoD speakers and charging a fee greater than this amount to any participants. You also need to consider what constitutes a “day.” In my view, a day with a one-hour training session is insufficient to justify a full day’s charges. The organizers should provide at least four hours of substantive training to establish a “day,” or charge proportionately less, if less training is provided. The burden must be placed on the conference sponsors to justify higher fees as “reasonable” under the JER when DoD is providing more than incidental speaker support. This benchmark is used merely to determine whether Army personnel may provide logistical support. It does not address whether personnel attending such conferences, meetings, or symposia will be reimbursed for paying registration fees.

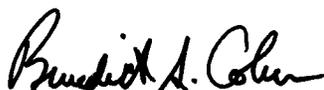
c. Collection and use of registration fees UP 10 U.S.C. § 2262 and USD (Comptroller) preliminary implementation guidance dated February 12, 2007. This office is coordinating with the Assistant Secretary of the Army (Financial Management and Comptroller) to establish implementing guidance and procedures within the Army. This guidance will include procedures to request reimbursable authority, reporting, and standards for determining reasonable costs that may be reimbursed. Until such additional policy guidance is published, I ask you to use this preliminary authority sparingly and judiciously, keep detailed accounting records, and avoid conference “gold plating.” Use the provisions of the Joint Federal Travel Regulation and the Joint Travel Regulation on allowable conference costs as guidance. Costs associated with social events and recreational activities, such as golf tournaments, may not be included.

d. Conflict of interest analysis for appointments of experts and consultants and Federal Advisory Committee Act (FACA) board and committee members. Paragraph 3.i. of the reference marks a significant departure from prior practice in this area. In the past, final reviews of OGE Form 450s for all FACA boards and committees in the Army were accomplished by DGC (E&F), including signing the DD Form 2292, to forward the nominations to OSD. Under the new decentralized review requirement, you or your designee will review and certify that conflicts of interest are appropriately resolved by signing the DD Form 2292 in block 14, Standards of Conduct Authority. This function will continue in OGC only for experts and consultants in the Secretariat and for FACA boards or committees within the Secretariat -- currently, only the Army Science Board.

e. Waiver of late filing fees, SF 278. 5 CFR 2634.704. Deputy DAEOs are in the best position to make factual determinations with respect to whether extraordinary

circumstances exist to justify waiver of the \$200 late filing fee for SF 278s. I, therefore, am delegating this additional authority to you. Ensure compliance with the requirement of 5 CFR 2634.704(b)(2) that determinations to grant or deny a waiver are in writing and provided to the employee.

4. I commend you for innovation and creativity in helping to ensure both compliance with the Standards of Ethical Conduct for Employees of the Executive Branch and maintaining an ethical culture and command climate in your organizations. I am here to support your efforts. I will look to you for good ideas on how we can serve our clients better and more efficiently. I encourage you to communicate and coordinate with each other and with me. Thank you for joining with me in making the Army the ethical model for the Federal Government.



Benedict S. Cohen
Designated Agency Ethics Official