DCN: 9513

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

TECHNOLOGY
AND LOGISTICS

September 16, 2004
23 1920

ACTION MEMO

FOR: ACTING UNDER SECRETARY OF DEFENSE (AT&L)

FROM: Mr. Raymond F. DuBois, DUSD (I&E)

SUBJECT: Conflicts of Interest Reviews and Training for Joint Cross Service Groups

- The ethics and BRAC counsels have determined that statutory conflict of interest provisions apply to BRAC. As such, they have developed a process to ensure all personnel involved in BRAC deliberations are properly screened for conflicting financial interests, and reminded of their legal requirements.
  - This applies to all participants who deliberate (i.e., limit alternatives or options that are presented to higher authority) and includes primary and alternate members of the IEC, ISG, and each JCSG.
  - This effort is necessary to protect our employees from inadvertently violating the law and will minimize potential ethics complaints that may be used to undermine the objectivity of BRAC.
  - Employees who through this effort identify conflicts and seek ethics counsel guidance will either be cleared to participate or appropriately disqualified.
- To be effective, conflict of interest reviews and special training must be completed before specific installations are identified as closure or realignment candidates.
  - The DoD OGC ethics counsel is responsible for reviews and training for OSD and Joint Staff personnel participating in BRAC. The Services are responsible for their personnel.
- The memorandum at Tab A advises JCSG chairs of their obligation in this process to:
  - Provide names, contact information, and status of financial disclosure forms, on all members and any participants the chair determines deliberate
  - Advise members and deliberating personnel of financial disclosure requirements and review financial disclosure forms
  - Arrange time for ethics counsel to train members and deliberating personnel

- The DoD OGC ethics counsel will separately arrange for training and conflicts review for OSD and Joint Staff members of the ISG and IEC through individual training. This topic will be a brief agenda item at an ISG meeting in the near future.

COORDINATION: OGC: Nicole Bayert, September 16, 2004

RECOMMENDATION: Sign the attached memoranda at TAB A

Attachments: As stated
Prepared by: Peter Potochney, ODUSD(I&E)/BRAC, (703) 614-5356

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

DCN: 9513

SEP 2 4 2004

MEMORANDUM FOR CHAIRMEN, JOINT CROSS SERVICE GROUPS

SUBJECT: Conflicts of Interest Reviews and Training for Joint Cross Service Groups

Statutes prohibit DoD employees from participating personally and substantially in particular matters that can affect their financial interests, or those with whom they have certain relationships. The DoD Office of General Counsel indicates that personnel who deliberate, that is, limit alternatives or options that are presented to personnel in higher authority in the Base Realignment and Closure process, have responsibilities falling within these prohibitions at the point in the analytical process when specific installations are identified as candidates for closure or realignment.

These employees are required to file financial disclosure reports. Before reaching the stage at which the restrictions may come into play, the financial disclosure reports must be submitted and reviewed by ethics attorneys, and all conflicts of interest reviews must have occurred and necessary remedial actions put into place. These reviews and remedial actions protect our employees from inadvertently violating the law and ensure that the BRAC process is not tainted by complaints based on conflicts of interest.

The Offices of General Counsel for DoD and the Military Departments have prepared a joint presentation and handout on conflicts in the BRAC environment to help personnel potentially impacted by these restrictions meet the statutory requirements. Representatives from the Office of General Counsel will provide this presentation and offer direct assistance to all potentially impacted personnel. To assure that the BRAC process is not delayed, please provide the information requested and accomplish the actions required in the Attachment by the established dates.

Michael W. Wynne
Acting USD (Acquisition, Technology & Logistics)
Chairman, Infrastructure Steering Group

Attachment: As stated

cc: ISG Members

Actions Required for Conflict of Interest Reviews and Training
For
Joint Cross Service Groups (JCSGs)

- Provide to the OSD BRAC Office by 9/30/04:
  - name, telephone number, and email address for JCSG members and alternates
  - name, telephone number, and email address of subgroup personnel supporting the JCSGs who you determine participate in BRAC deliberations.*
  - These personnel may have already filed either a Public Financial Disclosure Report (SF 278) or a Confidential Financial Disclosure Report (OGE Form 450) within the past year. Please note whether the employee is updating a filed report or must complete a new one.
- Request those personnel who have filed either report to provide a copy of the signed report from their respective ethics offices, update the information on those copies as of the date they re-submit them for the BRAC review, and submit them to the JCSG Chair for the initial conflicts review.** At their option, they may instead submit a new report.
- Request those personnel who have not filed either report to use the DoD Standards of Conduct Office (SOCO) website, http://www.defenselink.mil/dodgc/defense_ethics/, and click on the Ethics Resource Library (second bullet in the left, purple column); then click on Forms (6th bullet down), and follow the directions to either print or download the applicable report. As soon as they have completed the report, they should submit it to the JCSG Chair for the initial conflicts review.**
- JCSG Chairs must review each report submitted and forward it to the DoD SOCO, Ms. Mason,* for the final conflicts review. Please do not hold reports to transmit as a group because time is of the essence. It is important that all reports be submitted to Ms. Mason no later than October 15th. Delay in completing the conflicts reviews may jeopardize our employees' ability to work on BRAC matters after specific installations are identified.
- As soon as possible, JCSG Chairs should schedule time on an agenda of their next meeting for an OGC representative to provide the conflicts presentation to members, alternates, and designated subgroup personnel. Other personnel may attend if they desire. Depending on questions, it may take approximately 30 minutes. Please contact Ms. Mason to arrange a mutually convenient time to schedule the presentation.

- At the presentation, identified personnel will receive a handout to help them identify additional potential conflicts, which are not required to be reported on the disclosure forms. They will be invited to discuss any other potential conflicts with their BRAC or ethics attorney. At the end of the conflicts review (completed when the reports are finally reviewed, the presentations completed, and the employees have had an opportunity to identify other potential conflicts), employees will be cleared to participate fully, or they and JCSG Chairs will know if they are disqualified from participating in any part of the BRAC process.

*For assistance in making this determination, please contact Nicole Bayert, 703/693-4842, bayertn@dodgc.osd.mil; or Gail Mason, 703/697-5305, masong@dodgc.osd.mil; both of the DoD Office of General Counsel.

**For guidance on reviewing reports, please go to the DoD SOCO website, http://www.defenselink.mil/dodgc/defense_ethics/, and click on the Ethics Resource Library (second bullet in the left, purple column); then click on DoD Guidance, the 2nd item, and scroll down to almost the bottom and click on Annual OGE Form 450 Filing Package for Employees; download the 5th item, Sample Instructions for Supervisors. You may also contact Gail Mason for assistance.