

SASC Guidance Regarding Military Officers in Grades 0-9 & 0-10

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g:socgclconfirm\0-9 & 0-10 SASC Policy

The Senate Armed Services Committee (SASC), through its General Counsel, has notified the DoD General Counsel of two policies that the SASC implements as part of the confirmation process.

Financial Interests in Largest Defense Contractors:

Military officers who are seeking confirmation to or have been confirmed to hold positions of importance and responsibility as defined in 10 U.S.C. 601(grades 0-9 and 0-10) may not hold financial interests in any of the largest ten defense contractors. (DoD Washington Headquarters Services, Directorate for Information, Operations, and Reports maintains a list of the largest contractors for DoD on its website at <http://www.dior.whs.mil>.) Interests in these companies must be divested. Certificates of Divestiture may be available in accordance with regulation.

Additionally, military officers in the grades of 0-9 and 0-10 who occupy senior acquisition positions: e.g., Director of DLA, Heads of Army Material Command and the Air Force Material Command; and the Inspectors General of each military department are prohibited from holding interests in any defense contractor.

These are prerequisites for confirmation by the Senate, and continue throughout the officer's assignment in that billet. Ethics officials who assist in the confirmation process should ensure military officers are aware of this requirement. Ethics officials supporting these military officers should remind them that the restriction continues throughout the duration of the assignment, and should carefully review the military officer's financial disclosure report to ensure the officer (or spouse or minor child) did not acquire prohibited interests, or that companies in which the officer held an interest and had not been in the top ten contractors in previous years, had ascended to the proscribed list. In such cases, divestiture is required in a timely manner after discovery.

Management of Organizations that Do Business with DoD or Focus Business on Military Personnel

The SASC is also concerned about military officers in grades 0-9 and 0-10 using the status of their office for their personal gain or the gain of commercial enterprises that invite them to serve on their boards of directors. Consequently, as a prerequisite for confirmation and as a continuing requirement, military officers nominated for 0-9 and 0-10 positions may not participate in the management of or serve on the boards of directors of companies that do business with DoD or focus their business on military personnel. This applies to both compensated and uncompensated service. This requirement is in addition to the Deputy Secretary of Defense memorandum of July 23, 1996, which prohibits all military officers in grades 0-7 through 0-10 from accepting compensation for serving as an officer or member of the board of directors of any non-Federal entity other than professional associations and closely-held family entities. Section 1033 of Title 10 U.S.C. dealing with participation in the management of certain non-Federal entities, is also applicable to such situations and establishes limited exceptions to the general rule.

Please contact Steve Epstein at 703-695-3422 or epsteins@dodgc.osd.mil if you have any questions.