

MEMORANDUM FOR DEFENSE SCIENCE BOARD MEMBERS

SUBJECT: Code of Conduct for DSB Activities

The Board

The Defense Science Board (DSB) is a Federal Advisory Committee established in the Office of the Under Secretary of Defense (Acquisition, Technology & Logistics) in accordance with the Federal Advisory Committee Act. **Members of the Board and its subordinate task forces are appointed as consultants to the Office of the Secretary of Defense and thus are considered "Special Government Employees" in accordance with Federal standards of conduct laws.**

It is important to remember that your appointment is for the purpose of obtaining your expertise and advice relative to the subject matter of the Board or a particular task force. You will not be called upon to make decisions nor issue communications, verbal or written, which are in any way directive in nature. Decisional or directory actions by you are not permitted under the terms of your employment as a consultant to this Board because these are inherently governmental functions not within the scope of your appointment.

Particular Matters

There is a criminal law (18 USC §208) that forbids officers and employees of the Executive Branch, including Special Government Employees, from participating, as Government personnel, in any "particular matter" in which they, their spouses, minor children, or partners have financial interests or in which businesses such persons are connected with have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than consideration of abstract scientific principles. **The test is whether the individual might reasonably anticipate that his or her Government action, or the decision, in which he or she participates or advises, will have a direct and predictable effect upon such financial interests.**

Conflict of Interest

Each member of the Defense Science Board and its task forces is asked to file a Confidential Statement of Affiliations and Financial interest (SF 450). In addition to meeting the regulatory requirements for the reporting of financial interests, the submission of this form accomplishes several other purposes. First, it is a reminder to the individual of his or her own financial interests and of the obligation to avoid acting as a Government employee in areas that

may conflict with personal interests. Second, it gives the Board's Executive Secretary notice of the individual's interests and subject areas where that person should not serve.

Every effort will be made to avoid involving you in a discussion or project that may place you in a compromising situation. **However, it must be primarily your responsibility to be alert to any potential conflict between your DSB duties and your personal interests.** It is to your benefit to disqualify yourself from any discussion that may affect any of your personal interests (see examples below). We have found that the best defense against any challenge to the integrity of Board members is to show that all rules were followed exactly and that reasonable precautions were taken. Thus, it is essential that the financial disclosure forms (SF 450) that you file with the Board be both current and accurate.

If potentially conflicting circumstances develop, you should advise a DSB staff member. If necessary, remedial steps will be suggested. For example, your assignment may be changed, or if the conflict is minor, the General Counsel may recommend the granting of a waiver, or it may be suggested that you divest yourself of the offending financial interests. **Other options may be available and may be discussed with the Standards of Conduct Office in the Pentagon (Room 3D941), telephone (703) 695-3272.**

Two **examples** of potential conflict of interest situations follow:

1. Programmatic Briefings/Presentations to the Board/DSB Task Force(s) by DoD or other government agencies.

Should you be associated with a company (as an employee or consultant) that has an interest in the program, you should immediately make that association known and ask if there is anything "competition sensitive" or otherwise inappropriate for you to hear in the material that is about to be presented. If the answer is yes, you should recuse yourself and leave the meeting. You should also specifically request that this action be noted in the Board or Task Force minutes and the DSB Executive Director or DSB Secretariat Representative will so note such action. When such occasions arise, the Chairman should ask if anyone else has a conflict.

2. Board/Task Force position on a program or programmatic issue.

If, as a Task Force or Board member, you find yourself in a position where your viewpoints on the pros and cons of a program are solicited, and your company or the company you consult for has an interest, or any other company for which you have signed a

"Disqualification Statement," you should again immediately recuse yourself from the matter and request that such recusal be made a part of the official minutes of the meeting.

Use of Information

Another area which deserves a word of caution is the use of inside information. **Members may not directly or indirectly use inside information to further a private gain for themselves or others.** "Inside information" means information received by the individual in the course of his or her official duties and not generally available to the public.

Regardless of the type of study being undertaken, it is essential that DSB members be provided the most complete information available. In doing this, the Department recognizes the status of the members as either special or regular Government employees, and their "need to know" and shares with them classified, for-official-use-only, or other sensitive information, as well as information, such as financial data, which is proprietary to third parties. This information may be used by DSB members only in carrying out the responsibilities of the Board. Using any of this information for private purposes would be improper, and in some cases illegal. **All information obtained in the course of DSB business should be treated as inside information unless it is made clear that it is publicly available.** This includes most of the information, handouts, etc., provided to you by the DSB Secretariat, either at the Board's Quarterly meetings or Task Force sessions. Although some of that information may be public knowledge, you should first check with the DSB Executive Secretary before providing copies of DSB handouts to anyone other than another DSB member.

Press Queries

The Board exists to provide advice on scientific, technical and manufacturing matters of interest to the Department of Defense. In developing its findings, recommendations and conclusions, **the Board members should normally treat its closed meeting deliberations and final report as privileged information which should not be released to the press or other sources until approved by the Under Secretary of Defense (Acquisition, Technology & Logistics).**

Should you receive any press inquiries on the activities of the Board or its Task Forces, you should refer said inquiries to the Office of the Assistant to the Secretary of Defense (Public Affairs). The specific point of contact for DSB matters is Ms. Cheryl Irwin,

(703) 697-5331. You should also notify the Executive Director of the Defense Science Board.

Other Limitations

You should be aware of a limitation that results from your service to the DSB, although it is unlikely that it will cause you problems. You may not represent anyone before a court or agency in a matter in which you participated personally and substantially in the course of your Government service. This restriction continues after the end of your Government affiliation.

Section 219 of Title 18, United States Code, prohibits membership on an Advisory Committee by any individual who is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 as amended, Title 22, United States Code, section 611, et seq. This is true whether your service as a member on the Advisory Committee is as a "special Government employee" or a "full Government employee."

Although the so-called "Procurement Integrity" law is in effect, your service on this advisory Board will not cause you to become a "procurement official" and you will not be subject to that Act.

You should also be aware of the Hatch Act, codified in Section 7324 of Title 5, United States Code, which prohibits you from participating in any matters relating to partisan political campaigns or management. You are subject to this Act only on those days in which you perform matters relating to your work as an advisory committee member.

Although all honoraria for most Federal personnel were banned beginning January 1, 1991, as a special Government employee you are exempt from those restrictions.

Dr William Schneider, Jr.
Chairman