INTELLIGENCE COMMUNITY DIRECTIVE

117

09 June 2013

Outside Employment

A. AUTHORITY: The National Security Act of 1947, as amended; the Ethics in Government Act, as amended; 18 USC, Sections 201-208; Executive Order 12333, as amended; and other applicable provisions of law.

B. PURPOSE

1. This Intelligence Community (IC) Directive addresses the requirement in 50 USC 403-1(u) that the Director of National Intelligence (DNI) establish policy prohibiting IC personnel from engaging in outside employment if such employment creates a conflict of interest or the appearance thereof.

2. This Directive establishes IC policy consistent with both the National Security Act of 1947, as amended, and with the Ethics in Government Act, as amended, which created the Office of Government Ethics (OGE) and established its jurisdiction and authority to oversee Federal government ethics programs.

C. APPLICABILITY

1. This Directive applies to the IC, as defined by the National Security Act of 1947, as amended, and to such elements of any department or agency as may be designated an element of the IC by the President, or jointly by the DNI and the head of the department or agency concerned.

2. This Directive, for IC elements located within departments, is intended to complement departmental policies to the greatest extent possible. Any perceived inconsistencies between this Directive and departmental policies shall be resolved in consultations between the Office of the DNI (ODNI) and the department, and with the OGE or the Department of Justice, as appropriate.

3. This Directive does not apply to enlisted members of the Uniformed Services.

D. POLICY

1. It is IC policy to comply with the Standards of Ethical Conduct for Employees of the Executive Branch (*5 Code of Federal Regulations, part 2635*). Outside employment may create a conflict of interest or an appearance thereof.

2. To avoid conflicts and appearances of conflicts of interest to the greatest extent possible, IC employee engagements in outside employment will be subject to review and approval by their employing element in accordance with procedures outlined in paragraph E.3.b below.

3. Outside employment means any form of non-Federal employment or business relationship involving the provision of personal services, with or without compensation, by the employee. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner or trustee. It does not include participation in activities of a non-profit, charitable, religious, public service, or civic organization, unless such activities involve the provision of professional services or are for compensation.

4. IC employees shall consult with Designated Agency Ethics Officials (DAEOs) supporting IC elements concerning any questions or concerns arising from the implementation of this Directive or other possible conflict of interest situations. For some IC elements, the supporting DAEO, or DAEO designee, may be at the Department level.

5. Nothing in this Directive shall alter or diminish the responsibility of department, agency, or IC element ethics officials to manage and oversee their respective ethics programs.

E. ROLES AND RESPONSIBILITIES

1. The DNI will, pursuant to 50 USC 403-1(u)(2), submit to the congressional intelligence oversight committees an annual report describing outside employment of IC personnel who are required by their IC element to request approval.

2. The ODNI Office of General Counsel (OGC) shall:

a. Maintain metrics data received from IC elements on outside employment of IC personnel who are required by their IC element to request approval in accordance with the procedures outlined in Section E.3.b below; and

b. Provide this metrics data to the DNI, or the DNI's designee, for the DNI's annual report to the congressional intelligence oversight committees.

3. Heads of IC Elements shall:

a. Identify to the DNI, or the DNI's designee, the official designated as the DAEO, DAEO designee, or equivalent, supporting their IC element in accordance with OGE requirements;

b. Work with their supporting DAEO, DAEO designee, or equivalent, to:

(1) Ensure the implementation of a procedure for outside employment requests, reviews, and determinations consistent with this Directive;

(2) Ensure the procedure provides that IC employees who are required to request approval for outside employment and who engage in outside employment without prior approval, engage in outside employment after a request for approval has been denied, or engage in outside employment after advice that such employment creates a conflict of interest or appearance thereof, may be subject to adverse personnel action; and

(3) Ensure IC personnel receive training, advice, and guidance concerning the ethics requirements regarding outside employment, and the requirement to seek and obtain approval prior to engagement in any outside employment;

c. Maintain records of requests for engagement in outside employment by IC personnel who are required to request approval, in accordance with the Ethics in Government Act, National Archives and Records Administration General Records Schedule 25, and Ethics Program Records; and

d. Report annually to the DNI:

(1) Affirmation of the IC element's compliance with this directive;

(2) A general description of the IC element's procedure for IC employees to request approval for outside employment and the procedure for reviewing and making these determinations; and

(3) A description of the general categories and metrics of outside employment requests, approvals, and denials for IC employees who are required by their IC element to request approval for outside employment.

F. EFFECTIVE DATE: This Directive becomes effective on the date of signature.

James R. Clapper

Director of National Intelligence

9 JUNE 2013

Date