

**AMENDMENT TO RULES COMMITTEE PRINT 119–**

**33**

**OFFERED BY MR. DELUZIO OF PENNSYLVANIA**

Add at the end of subtitle A of title VIII, the following new section:

1 **SEC. 8** \_\_\_\_. **DEFENSE AWARD INTEGRITY.**

2 (a) **IN GENERAL.**—Part V of subtitle H of title 10,  
3 United States Code, is amended by inserting after chapter  
4 223 the following new chapter:

5 **“CHAPTER 224—DEFENSE AWARD**  
6 **INTEGRITY**

“3271. Prohibited conduct.  
“3272. Disclosure obligations.  
“3273. Recusal and disqualification.  
“3274. Enforcement.  
“3275. Component ethics officials.  
“3276. Definitions.

7 **“§ 3271. Prohibited conduct**

8 “(a) **INDIVIDUAL PROHIBITIONS.**—A covered official  
9 may not—

10 “(1) use public office or a position of substan-  
11 tial advisory influence for private gain;

12 “(2) direct Department opportunities or funds  
13 for the improper benefit of any entity;

1           “(3) manipulate requirements, evaluation cri-  
2           teria, investment criteria, technical standards, or  
3           consortium structures to favor any person or entity;

4           “(4) disclose nonpublic information before au-  
5           thorized release;

6           “(5) participate personally and substantially in  
7           matters affecting the official’s own financial inter-  
8           ests or those of a related entity;

9           “(6) conceal beneficial ownership interests re-  
10          quired to be disclosed under this chapter;

11          “(7) structure transactions to evade integrity  
12          restrictions;

13          “(8) use layered subcontracting, affiliates, in-  
14          vestment vehicles, or consortium arrangements to  
15          obscure conflicts of interest;

16          “(9) improperly influence source-selection,  
17          grant-selection, technical evaluation, investment-se-  
18          lection, or award decisions;

19          “(10) provide preferential access to nonpublic  
20          information; or

21          “(11) retaliate against any person reporting  
22          suspected misconduct, consistent with the protec-  
23          tions of section 1034 of this title and section 2302  
24          of title 5.

1       “(b) INTENT STANDARDS.—(1) For purposes of rem-  
2 edies under this chapter—

3           “(A) knowing or willful conduct is the standard  
4 for referral for criminal investigation and maximum  
5 civil penalties;

6           “(B) reckless disregard of applicable require-  
7 ments supports suspension pending investigation and  
8 intermediate civil penalties; and

9           “(C) conduct that a covered official knew or  
10 reasonably should have known violated this chapter  
11 is sufficient for administrative remedies including re-  
12 seission, debarment, and clawbacks.

13       “(2) For non-competitively appointed officials and  
14 qualifying advisory contractors, the standard in paragraph  
15 (1)(C) shall apply to all disclosure obligations under sec-  
16 tion 3273 of this chapter.

17       “(c) PATTERN EVIDENCE.—A pattern of conduct  
18 demonstrating disregard for integrity requirements con-  
19 stitutes evidence as follows, depending on the respondent:

20           “(1) A pattern of conduct by a covered entity  
21 constitutes evidence of lack of present responsibility  
22 under the suspension and debarment standards of  
23 subpart 9.4 of the Federal Acquisition Regulation  
24 (or any successor regulation), and may be the basis

1 for suspension, debarment, or termination of covered  
2 instruments by the cognizant debarring official.

3 “(2) A pattern of conduct by a covered official  
4 who is a Federal employee does not subject that in-  
5 dividual to suspension or debarment under subpart  
6 9.4 of the Federal Acquisition Regulation (or any  
7 successor regulation), which applies to contractors  
8 and recipients, not to Federal employees acting in  
9 their official capacity. Instead, a pattern of conduct  
10 by such an official shall—

11 “(A) be reported by the component ethics  
12 official to the Inspector General of the Depart-  
13 ment of Defense for review under the Inspector  
14 General Act of 1978;

15 “(B) be considered in applicable removal  
16 procedures for non-competitively appointed offi-  
17 cials; and

18 “(C) be considered in any security clear-  
19 ance determination under Executive Order  
20 12968, or any successor order.

21 “(D) be referred to the Department of  
22 Justice where the pattern constitutes credible  
23 evidence of a criminal violation of title 18.

24 “(3) QUALIFYING ADVISORY CONTRACTORS.—A  
25 pattern of conduct by a qualifying advisory con-

1 tractor shall be treated as a pattern of conduct by  
2 both a covered entity for purposes of paragraph (1)  
3 and a covered official for purposes of subparagraphs  
4 (A) and (D) of paragraph (2). The advisory firm  
5 employing the qualifying advisory contractor shall  
6 also be subject to paragraph (1) where the pattern  
7 is attributable to the firm’s systemic failures of over-  
8 sight or ethics controls.

9 **“§ 3272. Disclosure obligations**

10 “(a) BASELINE DISCLOSURE.—A covered official  
11 shall disclose all financial, employment, fiduciary, con-  
12 sulting, subcontracting, investment, partnership, creditor,  
13 and beneficial interests reasonably related to a covered  
14 transaction, consistent with requirements under chapter  
15 131 of title 5 and implementing Office of Government  
16 Ethics (‘OGE’) regulations, including requirements appli-  
17 cable to OGE Form 278 and OGE Form 450 filers where  
18 applicable.

19 “(b) SCOPE OF DISCLOSURE.—Under this section,  
20 non-competitively appointed officials and qualifying advi-  
21 sory contractors shall disclose—

22 “(1) interests held through intermediaries;

23 “(2) interests held by relatives within the mean-  
24 ing of section 13101 of title 5;

25 “(3) contingent compensation arrangements;

1 “(4) carried interests;

2 “(5) anticipated future employment;

3 “(6) consortium participation interests; and

4 “(7) investments held through private funds  
5 where the official knows or reasonably should know  
6 the identities of the affected entities.

7 “(c) ADVISORY CONTRACTOR DISCLOSURE.—(1) In-  
8 stead of complying with OGE form requirements described  
9 in subsection (a), a qualifying advisory contractor shall,  
10 before commencing work on any covered transaction and  
11 within 10 business days of any material change in inter-  
12 ests thereafter, file a disclosure with the component ethics  
13 official of the relevant component of the Department iden-  
14 tifying—

15 “(A) all financial interests, including equity, op-  
16 tions, warrants, carried interests, and contingent  
17 compensation, in any covered entity that could ben-  
18 efit from the covered transaction on which the quali-  
19 fying advisory contractor is working;

20 “(B) all current and anticipated consulting, ad-  
21 visory, employment, or board relationships with cov-  
22 ered entities;

23 “(C) financial interests of the advisory firm em-  
24 ploying the qualifying advisory contractor in covered

1 entities, to the extent known or reasonably ascer-  
2 tainable;

3 “(D) financial interests of the qualifying advi-  
4 sory contractor’s immediate family members in cov-  
5 ered entities, to the extent known; and

6 “(E) any interest that a reasonable person  
7 would consider likely to impair the qualifying advi-  
8 sory contractor’s impartial judgment.

9 “(2) The component ethics official shall review each  
10 disclosure for conflicts and may require recusal, mitiga-  
11 tion, or termination of the advisory engagement where a  
12 conflict is identified. Disclosures under this subsection are  
13 continuing obligations for the duration of the engagement.

14 “(d) ENHANCED DISCLOSURES FOR NON-COMPETI-  
15 TIVELY APPOINTED OFFICIALS.—(1) In addition to the  
16 requirements of subsections (a) and (b), a non-competi-  
17 tively appointed official shall, within 30 days of appoint-  
18 ment and within 30 days of any material change in inter-  
19 ests thereafter, file a supplemental disclosure with the  
20 component ethics official identifying—

21 “(A) all interests described in subsection (b)  
22 held in or with covered entities, including advisory  
23 board memberships, equity compensation arrange-  
24 ments, and investments held through private funds

1           “(B) a certification that no undisclosed inter-  
2           ests exist in entities likely to be substantially af-  
3           fected by covered transactions within the official’s  
4           portfolio; and

5           “(C) consent to cross-referencing of disclosed  
6           holdings against pending covered transactions within  
7           the official’s portfolio.

8           “(2) The component ethics official shall cross-ref-  
9           erence supplemental disclosures against pending covered  
10          transactions. Where a potential conflict is identified, the  
11          component ethics official shall notify the official and the  
12          Inspector General of the Department of Defense within  
13          5 business days, consistent with existing ethics counseling  
14          responsibilities under Department of Defense Directive  
15          5500.07 (or successor policy).

16          “(e) ADVISORY BOARD AND EQUITY COMPENSA-  
17          TION.—For non-competitively appointed officials and  
18          qualifying advisory contractors, advisory board member-  
19          ships and equity compensation arrangements with covered  
20          entities shall be expressly disclosed and shall not be treat-  
21          ed as de minimis interests regardless of value.

22          “(f) PUBLIC DISCLOSURE.—Supplemental disclo-  
23          sures filed under subsection (d) by non-competitively ap-  
24          pointed officials shall be maintained by the relevant head  
25          of an element of the Department in a publicly accessible,

1 machine-readable format. The Secretary shall establish  
2 procedures for publication within 30 days of receipt.  
3 Redactions shall be limited to information the disclosure  
4 of which would compromise national security, classified  
5 programs, or ongoing law enforcement activities, con-  
6 sistent with section 552 of title 5. Disclosures filed under  
7 subsection (c) by qualifying advisory contractors shall be  
8 maintained by the relevant head of an element and made  
9 available to the Inspector General for the Department of  
10 Defense.

11 “(g) CONTINUING AND FALSE DISCLOSURE OBLIGA-  
12 TIONS.—Disclosure obligations under this section are con-  
13 tinuing obligations throughout the duration of the covered  
14 transaction and engagement. Knowingly incomplete, mis-  
15 leading, evasive, or concealed disclosures constitute a vio-  
16 lation of this chapter. Deliberate structuring of interests  
17 to avoid disclosure thresholds constitutes a violation re-  
18 gardless of whether individual interests fall below applica-  
19 ble thresholds. Nothing in this section limits the applica-  
20 tion of section 1001 of title 18 to false statements in re-  
21 quired disclosures.

22 **“§ 3273. Recusal and disqualification**

23 “(a) MANDATORY RECUSAL.—(1) A covered official  
24 shall immediately recuse themselves from participation in  
25 a covered transaction if—

1           “(A) a financial conflict exists;

2           “(B) impartiality of the covered official may  
3 reasonably be questioned;

4           “(C) the covered official is negotiating future  
5 employment or compensation;

6           “(D) the covered official previously represented  
7 or participated on behalf of an interested entity;

8           “(E) an unresolved organizational conflict of in-  
9 terest exists; or

10           “(F) a reasonable person would question the in-  
11 tegrity of the transaction due to involvement of the  
12 covered official.

13           “(2) For qualifying advisory contractors, this obliga-  
14 tion extends to the advisory firm, which shall promptly  
15 notify the contracting officer and the component ethics of-  
16 ficial upon identifying a condition that triggers a recusal  
17 with respect to any individual qualifying advisory con-  
18 tractor assigned to a covered transaction.

19           “(b) PRE-GOVERNMENT SERVICE RECUSAL.—A non-  
20 competitively appointed official who was employed by, in-  
21 vested in, or served on the governing board of a covered  
22 entity within the 2-year period immediately preceding ap-  
23 pointment shall recuse themselves from all covered trans-  
24 actions in which that entity is a covered entity for the du-  
25 ration of the official’s service. Such recusal shall be docu-

1 mented in a recusal memorandum issued by the compo-  
2 nent ethics official and filed as part of the official's ethics  
3 agreement, shall be publicly disclosed, and shall not be  
4 waived on grounds of the criticality of the official's role,  
5 scarcity of qualified alternatives, or administrative neces-  
6 sity.

7       “(c) DOCUMENTATION.—Recusal determinations  
8 shall be documented in writing and signed by the covered  
9 official or, for qualifying advisory contractors, by both the  
10 individual and an officer of the advisory firm. Recusal doc-  
11 umentation shall be filed with the component ethics official  
12 not later than 2 business days after the recusal determina-  
13 tion.

14       “(d) NO WAIVER.—Notwithstanding any other provi-  
15 sion of law, no waiver of a recusal requirement under sub-  
16 section (a) or (b) may be granted solely because of sched-  
17 ule pressure, mission urgency, workforce limitations, tech-  
18 nical expertise scarcity, or administrative inconvenience.  
19 Where a required recusal creates an operational gap, the  
20 Secretary shall reassign the covered transaction to an  
21 unencumbered official or contractor rather than waive the  
22 recusal requirement.

1 **“§ 3274. Enforcement**

2 “(a) COVERED ENTITIES.—Violations of this chapter  
3 by covered entities, including advisory firms whose em-  
4 ployees are qualifying advisory contractors, will result in—

5 “(1) suspension or debarment under subpart  
6 9.4 of the Federal Acquisition Regulation (or any  
7 successor regulation);

8 “(2) rescission or termination of covered instru-  
9 ments;

10 “(3) clawback or disgorgement of amounts re-  
11 ceived in connection with a tainted covered trans-  
12 action;

13 “(4) civil monetary penalties;

14 “(5) cancellation of compensation arrange-  
15 ments;

16 “(6) injunctive relief; or

17 “(7) referral for criminal investigation to the  
18 Inspector General and the Department of Justice.

19 “(b) FEDERAL EMPLOYEE COVERED OFFICIALS.—

20 (1) Violations of this chapter by covered officials who are  
21 Federal employees do not subject those individuals to sus-  
22 pension or debarment under subpart 9.4 of the Federal  
23 Acquisition Regulation (or any successor regulation). In-  
24 stead, violations by Federal employee covered officials will  
25 result in—

1           “(A) referral to the Inspector General of the  
2           Department of Defense for investigation under chap-  
3           ter 4 of title 5 (commonly known as the ‘Inspector  
4           General Act of 1978’);

5           “(B) personnel action under chapter 75 of title  
6           5 for competitive service employees, including sus-  
7           pension without pay, demotion, or removal;

8           “(C) removal or other personnel action under  
9           applicable procedures for non-competitively ap-  
10          pointed officials;

11          “(D) adverse security clearance action under  
12          Executive Order 12968, or any successor order;

13          “(E) civil monetary penalties under authorities  
14          available to the Secretary; or

15          “(F) referral for criminal investigation to the  
16          Inspector General and the Department of Justice  
17          where the conduct constitutes a potential violation of  
18          title 18.

19          “(2) Where a Federal employee covered official is also  
20          an officer or employee of a covered entity—such as a spe-  
21          cial Government employee who retains private sector posi-  
22          tions—the remedies of subsection (a) may additionally  
23          apply to that entity.

24          “(c) REMEDIES—QUALIFYING ADVISORY CONTRAC-  
25          TORS.—Violations of this chapter by qualifying advisory

1 contractors will result in the remedies of subsection (a)  
2 with respect to the advisory firm and additionally in—

3 “(1) individual debarment of the qualifying ad-  
4 visory contractor in their personal capacity from fu-  
5 ture work as a contractor, consultant, or advisory  
6 contractor with the Department, under the indi-  
7 vidual debarment authority of subpart 9.4 of the  
8 Federal Acquisition Regulation (or any successor  
9 regulation);

10 “(2) termination of the advisory engagement;

11 “(3) clawback of fees paid in connection with a  
12 tainted covered transaction; and

13 “(4) referral for criminal investigation where  
14 conduct constitutes a potential violation of title 18,  
15 including sections 1001, 201, and 1905 of title 18.

16 “(d) MANDATORY REFERRAL.—(1) The following  
17 violations shall be referred without discretion to the In-  
18 spector General of the Department of Defense and the De-  
19 partment of Justice—

20 “(A) violations by non-competitively appointed  
21 officials in covered transactions;

22 “(B) violations involving falsification of OGE  
23 disclosure forms, supplemental disclosures under sec-  
24 tion 3272(d), or advisory contractor disclosures  
25 under section 3272(c) of this chapter;

1           “(C) second or subsequent violations by the  
2           same covered official, qualifying advisory contractor,  
3           or covered entity; and

4           “(D) violations involving undisclosed financial  
5           interests in covered entities by qualifying advisory  
6           contractors on transactions.

7           “(2) Referrals under this subsection shall be treated  
8           as referrals under section 408(e) of title 5.

9           “(e) PUBLIC REPORTING.—The Secretary shall pub-  
10          lish on a publicly accessible website, not less frequently  
11          than quarterly, a summary of enforcement actions taken  
12          under this chapter, including the nature of the violation,  
13          the category of respondent, the remedy imposed, and  
14          whether a criminal referral was made. Individual names  
15          may be withheld pending final disposition of any criminal  
16          proceedings.

17          “(f) COMPETITOR REMEDY.—A person who competed  
18          for a covered transaction and suffered competitive harm  
19          from a violation of this chapter may seek relief through  
20          a protest to the Comptroller General under subchapter V  
21          of chapter 35 of title 31 or through an action in the  
22          United States Court of Federal Claims under section  
23          1491(b) of title 28. Nothing in this section limits other  
24          remedies available to an aggrieved offeror under existing  
25          law.

1       “(g) SYSTEMIC VIOLATIONS.—Repeated or systemic  
2 violations of this chapter constitute evidence of lack of  
3 present responsibility under subpart 9.4 of the Federal  
4 Acquisition Regulation (or any successor regulation). The  
5 Secretary may void or rescind covered transactions tainted  
6 by violations of this chapter.

7       **“§ 3275. Component ethics officials**

8       “(a) DESIGNATION OF FUNCTION.—The Secretary  
9 shall designate the component ethics official of each ele-  
10 ment of the Department as the responsible official for in-  
11 tegrity screening under this chapter with respect to cov-  
12 ered transactions within that component. Component eth-  
13 ics officials, acting within their existing authority under  
14 Department of Defense Directive 5500.07 and the Joint  
15 Ethics Regulation (Department of Defense 5500.07-R) or  
16 successor policy, shall additionally—

17               “(1) cross-reference supplemental disclosures  
18 under section 3272(d) and advisory contractor dis-  
19 closures under 3272(c) of this chapter against active  
20 acquisition programs and pending covered trans-  
21 actions within the component;

22               “(2) issue, amend, and monitor recusal memo-  
23 randa for non-competitively appointed officials and  
24 qualifying advisory contractors, including pre-Gov-

1           ernment service recusals under section 3273(b) of  
2           this chapter; and

3           “(3) coordinate with and make referrals to the  
4           Inspector General consistent with chapter 4 of title  
5           5 regarding potential violations of this chapter.

6           “(b) INDEPENDENCE PROTECTIONS.—Notwith-  
7           standing any other provision of law, a component ethics  
8           official shall not be subject to direction from any non-com-  
9           petitively appointed official with respect to the perform-  
10          ance of the official’s functions under this chapter. A com-  
11          ponent ethics official may not be removed from their posi-  
12          tion or have their responsibilities under this chapter reas-  
13          signed during a pending review under this chapter except  
14          with the concurrence of the Inspector General of the De-  
15          partment of Defense. If a component ethics official is re-  
16          moved or reassigned during a pending review under this  
17          chapter, the Inspector General of the Department of De-  
18          fense shall notify the congressional defense committees not  
19          later than 72 hours after learning of such action, con-  
20          sistent with the reporting responsibilities of the Inspector  
21          General under section 405 of title 5.

22          “(c) CONGRESSIONAL REPORTING.—The Inspector  
23          General of the Department of Defense shall include in the  
24          semiannual report required under section 405 of title 5  
25          a summary of—

1           “(1) the number and nature of integrity reviews  
2 initiated under this chapter by component ethics of-  
3 ficials;

4           “(2) referrals made to the Inspector General  
5 under this chapter and the disposition of such refer-  
6 rals;

7           “(3) covered transactions on which a hold was  
8 recommended under subsection (f);

9           “(4) any instance in which a component ethics  
10 official’s access, authority, or resources under this  
11 chapter were reduced during a pending review; and

12           “(5) recommendations for legislative or regu-  
13 latory changes.

14           “(d) **AUTHORITY TO RECOMMEND TRANSACTION**  
15 **HOLD.**—A component ethics official who has credible rea-  
16 son to believe that a covered transaction involves a viola-  
17 tion of this chapter may recommend to the senior acquisi-  
18 tion executive of the relevant component that the trans-  
19 action be placed on hold pending review. If the senior ac-  
20 quisition executive declines to place the transaction on  
21 hold, the component ethics official shall notify the Inspec-  
22 tor General not later than 2 business days after the dec-  
23 lination. The Inspector General may independently rec-  
24 ommend a hold to the Secretary. The recommendation and  
25 the senior acquisition executive’s response shall be docu-

1 mented in writing and included in the official record of  
2 the transaction.

3 **“§ 3276. Definitions**

4 “In this chapter:

5 “(1) The term ‘assistance’ means, for purposes  
6 of this chapter, strategic advice, technical analysis,  
7 drafting of communications or proposals, identifica-  
8 tion of key decision-makers, assessment of evalua-  
9 tion criteria, or similar substantive support, regard-  
10 less of whether the former official or contractor com-  
11 municates directly with Department personnel.

12 “(2) The term ‘component ethics official’ means  
13 the designated agency ethics official, or their des-  
14 ignee, designated for a component of the Depart-  
15 ment of Defense pursuant to Department of Defense  
16 Directive 5500.07 or subsequent policy, responsible  
17 for administering the Standards of Conduct program  
18 and reviewing financial disclosure forms under chap-  
19 ter 131 of title 5 within that component, who is as-  
20 signed the additional functions specified in this  
21 chapter.

22 “(3) The term ‘congressional defense commit-  
23 tees’ has the meaning given that term in section  
24 101(a)(16) of this title.

1           “(4) The term ‘covered entity’ means any con-  
2           tractor, subcontractor, consortium manager, consor-  
3           tium member, grant recipient, investment recipient,  
4           venture fund, investment vehicle, affiliate, sub-  
5           sidiary, advisory entity, or other person substantially  
6           affected by a covered transaction.

7           “(5) The term ‘covered instrument’ means—  
8           “(A) a procurement contract;  
9           “(B) a grant or cooperative agreement;  
10           “(C) an other transaction agreement under  
11           section 4022 of this title;  
12           “(D) a loan or loan guarantee;  
13           “(E) an equity investment, quasi-invest-  
14           ment, or investment vehicle;  
15           “(F) a consortium arrangement;  
16           “(G) a technology-transition agreement;  
17           “(H) a public-private financing arrange-  
18           ment; or  
19           “(I) any modification, extension, restruc-  
20           turing, renewal, transfer, or related agreement  
21           of an instrument described in subparagraphs  
22           (A) through (H).

23           “(6) The term ‘covered official’ means any offi-  
24           cer, employee, advisory committee member, support  
25           contractor employee, detailee, consultant, or agent

1 substantially participating in a covered transaction,  
2 including non-competitively appointed officials and  
3 qualifying advisory contractors.

4 “(7) The term ‘covered transaction’ means any  
5 solicitation, source selection, grant selection, invest-  
6 ment selection, technical evaluation, award, issuance,  
7 administration, monitoring, valuation, restructuring,  
8 modification, closeout, or termination of a covered  
9 instrument where non-competitively appointed offi-  
10 cials or qualifying advisory contractors participate  
11 personally and substantially.

12 “(8) The term ‘non-competitively appointed of-  
13 ficial’—

14 “(A) means a covered official who holds or  
15 held a position filled other than through com-  
16 petitive examination under chapter 33 of title 5,  
17 including—

18 “(i) officers appointed by the Presi-  
19 dent, by and with the advice and consent  
20 of the Senate;

21 “(ii) officers appointed by the Presi-  
22 dent alone under section 3132 of title 5;

23 “(iii) employees appointed to Schedule  
24 C positions under part 213 of title 5, Code  
25 of Federal Regulations;

1           “(iv) employees appointed under spe-  
2           cial hiring authorities that bypass competi-  
3           tive examination procedures, including ex-  
4           cepted service appointments under section  
5           3302 of title 5 that are not subject to com-  
6           petitive procedures;

7           “(v) non-career Senior Executive  
8           Service appointees under section  
9           3132(a)(7) of title 5; and

10          “(vi) special Government employees,  
11          as defined in section 202 of title 18, who  
12          exercise substantial authority over covered  
13          transactions; and

14          “(B) does not include career competitive  
15          service employees, career Senior Executive  
16          Service appointees, or military officers ap-  
17          pointed under chapter 33 of this title.

18          “(9) The term ‘nonpublic information’ in-  
19          cludes—

20               “(A) source-selection information;

21               “(B) bid or proposal information;

22               “(C) technical evaluation information;

23               “(D) investment-selection information;

24               “(E) assistance-selection information;

25               “(F) proprietary information;

1 “(G) classified information;

2 “(H) controlled unclassified information;

3 and

4 “(I) market-sensitive information, con-  
5 sistent with the meaning of such terms under  
6 the Procurement Integrity Act (41 U.S.C. 2101  
7 et seq.).

8 “(10) The term ‘organizational conflict of inter-  
9 est’ has the meaning given that term in subpart 9.5  
10 of the Federal Acquisition Regulation (or any suc-  
11 cessor regulation), and includes any condition in  
12 which a person or entity—

13 “(A) possesses unequal access to nonpublic  
14 information;

15 “(B) establishes biased ground rules;

16 “(C) exercises impaired or biased judg-  
17 ment;

18 “(D) influences Department decisions af-  
19 fecting its own financial interests;

20 “(E) occupies multiple conflicting roles; or

21 “(F) obtains an unfair competitive, finan-  
22 cial, technical, or investment advantage.

23 “(11) The term ‘personal conflict of interest’  
24 means any financial interest, employment relation-  
25 ship, negotiating arrangement, compensation struc-

1           ture, or personal interest that may impair impartial  
2           judgment.

3           “(12) The term ‘qualifying advisory con-  
4           tractor’—

5                   “(A) means a covered official who—

6                           “(i) is employed by or under contract  
7                           with a private entity to provide advisory,  
8                           consulting, analytical, evaluation, or as-  
9                           sessment services to the Department;

10                           “(ii) is substantially participating in a  
11                           covered transaction within the meaning of  
12                           paragraph (10); and

13                           “(iii) is not a Federal employee;

14                           “(B) includes individuals providing services  
15                           under advisory and assistance services con-  
16                           tracts, as defined in section 2.101 of the Fed-  
17                           eral Acquisition Regulation, management sup-  
18                           port contracts, independent advisory panels,  
19                           study and analysis contracts, and similar in-  
20                           struments, regardless of the contract vehicle  
21                           through which services are provided; and

22                           “(C) does not include contractor personnel  
23                           performing purely operational, maintenance, lo-  
24                           gistics, or information technology support func-

1           tions with no advisory or analytical role in cov-  
2           ered transactions

3           “(14) The term ‘substantially participating’—

4                   “(A) means active, material involvement in  
5           a covered transaction through one or more ac-  
6           tivity, including—

7                           “(i) drafting, developing, or materially  
8                           contributing to requirements documents,  
9                           capability gap analyses, statements of  
10                          work, performance specifications, or eval-  
11                          uation criteria;

12                          “(ii) scoring, ranking, or preparing  
13                          written assessments of proposals, offers, or  
14                          technical submissions;

15                          “(iii) presenting findings, rec-  
16                          ommendations, or assessments to decision-  
17                          makers with authority over a covered  
18                          transaction;

19                          “(iv) advising decision-makers on  
20                          source selection, investment selection, or  
21                          award strategy;

22                          “(v) designing or structuring the  
23                          terms, scope, or evaluation framework of a  
24                          covered instrument;

1           “(vi) conducting or directing due dili-  
2           gence on covered entities in connection  
3           with a covered transaction; or

4           “(vii) any other activity through  
5           which the person’s work product materially  
6           influences a covered transaction outcome;  
7           and

8           “(B) does not include purely administra-  
9           tive or logistical support, general training unre-  
10          lated to a specific covered transaction, or mar-  
11          ket research that is publicly disseminated with-  
12          out attribution and used only as background in-  
13          formation. The fact that a decision-maker sub-  
14          sequently exercised independent judgment does  
15          not by itself establish that a person’s prior con-  
16          tribution was not substantial participation.”.

17          (b) **EFFECTIVE DATE.**—The amendments made by  
18          subsection (a) shall take effect on the date that is 90 days  
19          after the date of the enactment of this Act.

20          (c) **APPLICABILITY.**—Chapter 224 of title 10, United  
21          States Code, as added by subsection (a), shall apply with  
22          respect to—

23                 (1) non-competitively appointed officials serving  
24                 on or after the effective date specified in subsection  
25                 (f); and

1           (2) advisory engagements under covered instru-  
2           ments awarded, modified, or renewed on or after  
3           such effective date.

4           (d) REGULATIONS.—Not later than 270 days after  
5           the date of the enactment of this section, the Secretary  
6           of Defense shall revise the Department of Defense Supple-  
7           ment to the Federal Acquisition Regulation and related  
8           Department of Defense guidance, consistent with section  
9           1121 of title 41 and the Federal Acquisition Regulation,  
10          to implement chapter 224 of title 10, United States Code,  
11          as added by subsection (a). Regulations revised under this  
12          subsection shall expressly address the disclosure and con-  
13          flict-of-interest obligations applicable to qualifying advi-  
14          sory contractors (as defined in such chapter 224) and  
15          shall apply consistent integrity requirements across all  
16          covered instruments (as defined in such chapter 224).

17          (e) RULE OF CONSTRUCTION.—Chapter 224 of title  
18          10, United States Code, as added by subsection (a), sup-  
19          plements and does not supplant requirements under—

20                 (1) section 207 of title 18, United States Code  
21                 (relating to “post-employment restrictions”);

22                 (2) the Procurement Integrity Act (41 U.S.C.  
23                 2101 et seq.);

1           (3) Federal ethics requirements under chapter  
2           131 of title 5, United States Code, and Office of  
3           Government Ethics regulations;

4           (4) suspension and debarment authorities under  
5           subpart 9.4 of the Federal Acquisition Regulation  
6           (or any successor regulation);

7           (5) the Lobbying Disclosure Act of 1995 (2  
8           U.S.C. 1601 et seq.);

9           (6) national security nondisclosure obligations;

10          (7) Inspector General authorities under the In-  
11          spector General Act of 1978 (chapter 4 of title 5,  
12          United States Code);

13          (8) whistleblower protections under section  
14          1034 of title 10, United States Code, section 2302  
15          of title 5, United States Code, and the Whistleblower  
16          Protection Act of 1989 (5 U.S.C. 1211 et seq.);

17          (9) bid protest rights under subchapter V of  
18          chapter 35 of title 31, United States Code and sec-  
19          tion 1491(b) of title 28, United States Code; and

20          (10) civil service merit system principles under  
21          section 2301 of title 5, United States Code.

