

Accurate Energetic Systems, LLC
Ethics and Compliance
Handbook

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AES CODE OF CONDUCT AND BUSINESS ETHICS

I. INTRODUCTION

Accurate Energetic Systems, LLC (“AES” or the “Company”) manufactures various high explosive compositions and specialty products, including products for aerospace, military, oil exploration, commercial blasting and precision demolition applications. A substantial portion of AES’ products are sold, either directly or through subcontractors, to the United States Government or foreign and state governments. This Code of Conduct and Business Ethics (“Code”) addresses Company policy relating to such Government business as well as our commercial business. The Code applies to all AES officers, employees, agents, representatives and consultants working for or on behalf of AES.

Each AES employee receiving this Code must read it and follow its provisions. An employee’s obligations include the obligation to seek assistance or clarification to avoid unethical or illegal business conduct. There are several avenues available to employees who have concerns or questions of an ethical or compliance nature. Managers and supervisors are available for this purpose, as is the Human Resources Manager, and the Company’s External Compliance Officer (“Compliance Officer”). Employees may also alert management of ethics and compliance concerns, anonymously if they wish, via the Company’s ethics hotline, 1-888-257-7963, which is available 24 hours a day, 365 days a year. Company managers and supervisors are responsible for assuring that this Code is understood and followed by their subordinates. Compliance with law, regulation, this Code, as well as sound ethical practices, will be taken into account in reviewing the performance of all employees. Further, support of AES Compliance Program is a requirement for all employees.

II. COMPLIANCE PROGRAM

AES is committed to complying with the letter and spirit of all U.S. federal, state, and local and foreign laws and regulations and contract obligations to which the Company is subject. The Company has adopted a Corporate Compliance Program for this purpose. The Compliance Program is designed to convey, in no uncertain terms, the absolute commitment of AES to the highest standards of integrity. This Code is an integral part of the Compliance Program. Other elements of the Program include setting ethics and compliance standards, communicating those standards through policies set forth in the Compliance Handbook and other media, providing a mechanism for employees to report issues of concern, monitoring and auditing, and maintaining an organizational structure that supports the furtherance of the Program. The Compliance Program is described in more detail in the Compliance Handbook.

III. COMPLIANCE WITH LAWS AND REGULATIONS

In adhering to this Code, employees must be cognizant of all applicable laws and regulations that apply to and impact the conduct of the Company's business affairs. Each employee has an obligation to familiarize himself or herself with all such applicable laws and regulations and to adhere at all times to these requirements. When there is any question or uncertainty regarding interpretation of these requirements, it is incumbent upon each employee to seek guidance from his or her immediate supervisor or manager, the Human Resources Manager, or from the Compliance Officer.

It is contrary to Company policy for any person to request, pressure, or direct an AES employee to act in violation of law, regulation, contract requirement, company policy or any other requirement. This includes, among other violations, falsification of certificates of conformance or misrepresentations of any kind relating to quality control. Any such request or direction should be brought to the immediate attention of the Compliance Officer.

The Code's discussion of some of the principal laws affecting the Company's Government business is intended to provide general guidance to AES employees. It is not intended to be a complete discussion of the related statutes and regulations imposing requirements upon AES and its employees. Additional detail and guidance is available from supervisors and officers of the Company, as well as from the Compliance Officer.

IV. WORKPLACE CONDUCT

Non-discrimination. AES is committed to recruiting, hiring, developing and promoting employees without discrimination on the basis of race, sex, age, national origin, religion, disability, or veteran status. The Company believes diversity strengthens its work force and enhances its competitiveness. AES expects its employees to treat each other with respect and to learn to appreciate other backgrounds and cultures. The Company does not tolerate harassment based on race, sex, age, national origin, religion, disability, or veteran status.

Workplace Safety. The Company is committed to providing a safe and healthy work environment free from illegal drugs, violence, threats of violence, and the influence of alcohol. AES prohibits the illegal use, sale, purchase, transfer, or possession of any controlled substances while on Company premises or while conducting Company business or on assignment.

Conflicts of Interest. A conflict of interest may occur if an AES employee's outside activities, personal financial interests, or other personal interests influence or appear to influence his or her ability to make objective decisions in the course of his or her job responsibilities. AES employees are obligated to ensure that they remain free of conflicts of interest in the performance of their workplace duties and responsibilities. If employees have any question about whether an outside activity or personal interest might constitute a conflict of interest, they should ask their supervisor or the Compliance Officer before pursuing the activity or obtaining or retaining the interest.

Gifts, Entertainment, and Other Business Courtesies. As a general rule, business courtesies such as gifts, entertainment, services, or favors offered to commercial, non-governmental customers or other business associates should be infrequent and reasonable, legal, and offered in a way that does not create the appearance of impropriety. There are additional constraints on AES' ability to offer or accept business courtesies in connection with potential government customers or representatives, both U.S. and foreign (*see* Section VI below).

Marketing and Advertising Materials. In preparing and using Company marketing and advertising materials, we must ensure that (1) no false or misleading statements are used; (2) all Company proprietary data are properly marked with the appropriate legends; and (3) when we use the trademarks of another company, these marks are used correctly and their owners are given proper attribution.

V. COMPANY RESOURCES

AES resources, including time, material, facilities, equipment, information, and services, are made available to assist each employee do his or her job. These resources should only be used for authorized business purposes unless a specific exception has been approved by management.

Time-Keeping and Other Records. In reporting an employee's time each week, the employee is certifying how his or her time was spent on work-related activities. The accuracy of these time records directly affects the accuracy of the data upon which AES' billing systems depend. Improperly shifting costs from one contract or project to another or improperly charging labor or materials and falsifying time-keeping or other records are strictly prohibited and may be illegal.

Property. Company-owned equipment, including telephones, fax machines, and computers, are to be used primarily for business purposes. While limited personal use of AES communications systems is permitted, users should assume these communications are not private. Employees may not use AES communication channels or access to the internet at work to post, store, transmit, download, or

distribute any threatening materials, knowingly, recklessly, or maliciously transmit false materials, obscene materials, or anything constituting or encouraging the violation of any laws. The unauthorized removal of Company property may be considered theft.

Information. Information, knowledge, or know-how that gives a competitive advantage is considered intellectual property and is an asset as valuable as money, property, time, or skill. AES' intellectual property must be used for authorized company business purposes only. Employees must protect AES proprietary or private information, which may include technical designs or strategy, software, employee records, or information learned in a partnership or teaming arrangement. AES employees may not use any information about the Company's business for personal gain unless that information is available to the general public and the use is permitted by Company policies. AES intellectual property, including data and information systems, customer lists, and other trade secrets, must remain with the Company when an employee leaves the Company. Use by a former employee of AES' intellectual property is a violation of law.

Accurate Records and Submissions. AES has a policy of complying with all record retention requirements imposed under U.S. federal and state and foreign laws and regulations. Employees must not improperly destroy, improperly alter, make false entries on, or willfully fail to make correct entries on any Company documents or records. All Company employees are responsible for ensuring that this policy is understood and implemented consistently across the Company. Company employees are also expected to ensure that any information provided to outside parties is accurate and truthful. When AES is asked to provide information to the U.S. Government or to state or foreign government officials, inaccuracies or falsehoods could result in severe legal and financial consequences for the Company; therefore, extra care must be given to any statements, certifications, representations, and submissions made to government customers.

VI. DOING BUSINESS WITH THE UNITED STATES GOVERNMENT – SPECIAL GUIDELINES

The rules imposed on the Company when it does business with the U.S. Government are often different from, and more restrictive than, the rules that apply to purely commercial transactions. As a government contractor, AES is committed to complying with all of those special requirements.

How to Recognize When These Special Rules Apply. While the cases in which AES contracts directly with the U.S. Government are limited, the special rules for doing business with the U.S. Government also apply when AES does business indirectly with the Government as a subcontractor at any tier. In those cases, even though the Company does not hold a contract directly with the Government, many

of the special rules nonetheless apply to AES because the U.S. Government pays for AES' products. In addition, there are rules that apply to the Company's relationships with third parties, such as teaming partners, vendors, and suppliers, who are working with it to meet the U.S. Government's needs and requirements.

The Special Rules. The policies that accompany this Code of Conduct and Business Ethics set forth in detail the special rules that apply when AES performs a Government contract or subcontract. These policies include the following rules:

- ❖ *Prohibition on Accepting Kickbacks.* Two basic rules govern gifts and favors offered to AES personnel by vendors, suppliers, and subcontractors who do business with the Company under U.S. Government contracts: (1) never solicit anything of value; and (2) never accept money. An occasional meal or gifts of nominal value such a marketing item offered during the course of a business meeting and approved by management is permitted.
- ❖ *Offering Gifts and Gratuities.* AES does not permit its employees to offer to U.S. Government employees any gifts or business courtesies, except for: company-approved advertising items of nominal value (such as pens and caps), plaques and certificates of recognition, and coffee and other non-alcoholic beverages offered during a business meeting. In no event should the value of these courtesies exceed \$20 per person, per occasion or \$50 per person annually. With respect to prime contractor or higher tier subcontractors, it is AES policy only to offer items of nominal value or an occasional working meal, whose value does not exceed \$50 per person, per occasion.
- ❖ *Hiring Former and Current Government Employees.* Numerous laws restrict the timing of employment discussions between U.S. Government employees and contractors. There also are post-employment or "revolving door" restrictions that limit the types of activities that some former government personnel can perform in the private sector. Holding employment discussions with Government employees must be pre-approved by the Human Resources Manager.
- ❖ *Procurement Integrity.* During the competitive procurement process, certain types of information may not be requested or obtained by the Company unless the information is released to all competitors. In addition, certain other information about the Company's competitors, including pricing data, proprietary information, and trade secrets, is off limits irrespective of any legends or other markings.
- ❖ *Retention of Consultants.* AES employees must not only be aware of and comply with the various rules and restrictions governing arrangements

and agreements for consulting services but must also distinguish between the various types of consulting services for cost and other purposes. In addition, the Company can be held accountable for the acts of its agents and, therefore, has exposure to penalties and sanctions for illegal acts of consultants providing services to the Company.

- ❖ *Purchasing and Subcontracting.* Because the value of subcontracts and purchase orders awarded by a government contractor can be substantial, the Government has a strong interest and exercises great control over a contractor's subcontracting process. Among other things, Government requirements can affect the types of subcontract used, the amount and type of competition used, and the terms and conditions that are required to be flowed down to subcontractors.
- ❖ *Government Property.* The Company is required to establish and maintain a system in accordance with the federal requirements to control, protect, preserve, and maintain all Government property. As the Company is responsible and accountable for all Government property, AES employees must be able to identify such property and track it through the Company's property records.
- ❖ *Contract Certifications and Representations.* The Government uses contractor representations and certifications to ensure that prospective contractors meet the qualifications of contract solicitations. In addition, representations and certifications support public policy objectives, such as national security, honest dealing, and the advancement of socioeconomic and environmental policies.
- ❖ *False Claims.* The submission of false claims and false statements to the Government is strictly prohibited by United States law and subjects the originator to serious criminal and civil sanctions.
- ❖ *Record Retention.* AES employees must comply with the U.S. Government policies and procedures for retention and destruction of records by contractors to meet the record retention requirements of the Government.

Performance Obligations. During the course of contract performance, government contractors face numerous obligations unique to U.S. Government contracting, including strict compliance with the terms of the contract, as well as strict adherence to specifications, delivery schedules, milestones, and other performance commitments. Indeed, when the Company submits an invoice for payment or signs a certification of conformance, it is certifying that it has met all contract obligations, no matter how seemingly insignificant. Therefore, care must be exercised to ensure that the Company has a process for identifying all

contractual obligations and for making sure that those obligations are met before the Company requests payment from a customer. The Company must ensure that all arrangements that deviate from the letter of the contract are put in writing.

Penalties and Sanctions. The U.S. Government has a long list of legal sanctions and penalties available for violations of the requirements imposed by law, regulation, and contract. The consequences of running afoul of the government contracting rules range from criminal fines and imprisonment to civil fines, exclusion from the procurement, contract cancellation or termination, and debarment of AES from receiving future contracting opportunities awarded across the U.S. Government. Collateral consequences also include debarment from bidding on state and local government procurements. **These penalties and sanctions apply with equal force to AES and to those employees and agents involved in the improper activity.**

VII. DOING BUSINESS WITH FOREIGN GOVERNMENTS – SPECIAL GUIDELINES

Additional rules are imposed on the Company when it does business with foreign governments. As a government contractor, AES is committed to complying with all of these special requirements.

Foreign Corrupt Practices. The Foreign Corrupt Practices Act prohibits the making of a payment and the offering of anything of value to any foreign government official, government agency, political party or political candidate in exchange for a business favor or when otherwise intended to influence the action taken by any such individual or agency or to gain any competitive or improper business advantage. It is very important to know that the prohibitions of the Act apply to actions taken by all Company employees as well as Company consultants and agents. The Act does not apply, however, to the making of certain payments designed only to secure, facilitate, or expedite the rendering of a routine business service or to the extension of certain social or entertainment courtesies, so long as such payments and social courtesies are customary and appropriate in the circumstances and legal in the respective location. Examples of such routine business services include the delivery of mail, scheduling of inspections and provision of utility services.

ITAR/Export Controls. The International Tariff in Arms Regulations (“ITAR”) governs the export of defense articles and defense services and the Export Administration Regulations (“EAR”) governs the export of civil goods, software and technology, as well as dual-use items that have both civil and military applications. These export regulations are complex and require the Company to review whether a proposed export is subject to the ITAR or EAR, determine the specific export licensing controls applicable to a proposed export, and review probable end uses and potential end users. All Company employees who participate in export activities are

required to be familiar with and follow the Company's policies for complying with the export laws and regulations. Violations can result in criminal and civil penalties for the Company and individuals involved, as well as the Company's loss of export privileges.

VIII. DISSEMINATION, REVIEW AND CERTIFICATION OF THE AES CODE OF CONDUCT AND BUSINESS ETHICS

AES is distributing this Code to all Company employees. This distribution will be supplemented by appropriate review meetings and presentations on ethics and compliance. New employees will receive a copy of the Code in the course of their orientation and will be required to familiarize themselves with it. AES consultants and agents will be bound by the Code through written agreements.

Each individual receiving this Code is responsible for reading and understanding all included policies and procedures, and any questions of conflicts or clarifications should be addressed to their supervisor or the Compliance Officer. Each individual then must certify acceptance of this Code by signing one copy of the certification statement of the Compliance Handbook and returning it to the Human Resources Manager.

This Code is a statement of an ongoing program, and the Company will make periodic changes to the Code, as requirements dictate. Suggestions for improvement should be directed to the Human Resources Manager or Compliance Officer.

AES COMPLIANCE PROGRAM

I. INTRODUCTION

AES is committed to complying with the letter and spirit of all U.S. federal, state, and local and foreign laws and regulations and contract obligations to which the Company is subject. Further, it is the objective of Company management that AES be a leader in fostering a working environment where integrity and sound ethical practices are the rule, and where attention to the “bottom line” is never an excuse for cutting corners or failing to comply with our commitments and obligations. It is senior management’s goal to foster and promote an environment and culture of commitment to compliance and ethical behavior at all levels of the Company. At bottom, it is Company policy to “do the right thing.”

To assure that every employee understands what is expected, and to permit the Company to monitor compliance and ethics, AES has adopted a Corporate Compliance Program (the “Program”). The purpose of this policy is to describe that Program.

II. OVERVIEW OF THE COMPLIANCE PROGRAM

The Compliance Program has several components. First, to carry out the day-to-day operation of the Program, the Company has appointed a Compliance Officer whose duties include providing Ethics and Compliance training, responding to questions raised by Company personnel, and investigating and addressing reports of misconduct. Among other duties, the Compliance Officer also will be responsible for monitoring the success of the Program and for making changes to the Program as needed, including enhanced employee training, updates to written policies and procedures, and commissioning internal and external audits of Company operations.

In addition, the Company has developed, and will distribute along with explanatory training, a Code of Conduct and Business Ethics (“the Code”). From time to time, to supplement the Code, the Company will issue written policies and guidelines relating to particular legal, regulatory, and contractual requirements, including those special rules under which the Company operates as a contractor to the U.S. Government, state governments, and foreign governments. These policies will be maintained in the Compliance Handbook, which will be made available to all Company employees, consultants, and agents. Employees, consultants, and agents will be expected to certify that they have read the Code, and managers and supervisors will be required to annually certify that they have discussed the Code with employees during performance evaluations.

Finally, the Company has developed an internal reporting system whereby employees can report ethics concerns and suspected violations of the Code. In particular, the Company has instituted a toll-free Helpline to permit employees to raise questions or report misconduct, anonymously if they choose. The Helpline will be answered by the Compliance Officer or calls will go to a secure voice mailbox that can be accessed only by the Compliance Officer. If an employee requests anonymity, every reasonable effort will be made to protect the identity of the caller. If an employee has a concern about reporting an issue to the Compliance Officer, the employee may take the issue to the Human Resources Manager.

III. COMPLIANCE OFFICER

The Company's Compliance Officer has overall responsibility for the day-to-day operation of the Compliance Program. The Compliance Officer operates independently and makes periodic reports directly to the Company's Chief Manager. In particular, the Compliance Officer will:

- ❖ prepare an initial and periodic "risk assessment" for all lines of the Company's business operations, with an emphasis on those activities bearing the greatest risk, *e.g.*, contracts with the U.S. Government, state governments, and foreign governments;
- ❖ review, make recommendations on, and approve all ethics and compliance related corporate policies, directives, and procedures;
- ❖ review and be responsible for all questions regarding, and reports of possible infractions of, ethics, compliance, or the Code that are reported on the Company's toll-free Helpline, or otherwise come to the attention of the Compliance Officer;
- ❖ maintain systems for responding to, reporting, and investigating suspected violations of the Code or any other corporate ethics and compliance policies;
- ❖ review, make recommendations on, and approve all training related to the Company's Compliance Program; and
- ❖ review all employee discipline relating to violations of the Code or other misconduct bearing on ethics and compliance.

IV. THE AES CODE OF CONDUCT AND BUSINESS ETHICS

A. Current Employees

The Company will ensure that every permanent or U.S. employee of the Company is provided a copy of the AES Code of Conduct and Business Ethics. Each employee will be asked to sign a certification containing a statement that the employee has read and agrees to comply with the Code. Certifications will be returned to Human Resources and filed in each employee's HR file. A copy of the employee certification is attached as Exhibit 1 to this policy.

B. New Employee Orientation

Each new employee will be given a copy of the Code and the certification statement. A discussion of the Company's Compliance Program, including the Code, will be incorporated into the Company's new employee orientation programs.

C. Employee Performance Evaluations

For the Compliance Program to be successful, all employees and, in particular, supervisors and managers, must support the Program, including the promotion of a culture of ethical business conduct. Thus, promotion of the goals of compliance and integrity shall be an integral part of each manager's and supervisor's annual performance appraisal. All officers, department heads, managers, and supervisors will certify annually that they have discussed with each employee under their supervision (a) the content and application of the Code and the reporting channels that are available to employees at the Company; (b) that strict adherence to sound ethical standards and integrity, as well as compliance with the Code and other Company policies, are conditions of employment; and (c) that the Company will take disciplinary action, up to and possibly including termination, for violation of the Code, applicable laws, regulations, or basic tenets of business honesty and integrity. A copy of the annual certification is attached as Exhibit 2 to this policy.

D. Consultants and Agents

The Company will ensure that every current and new consultant and agent of the Company is provided a copy of the Code of Conduct and Business Ethics. Each individual will be asked to sign a certification containing a statement that the individual has read and agrees to comply with the Code similar to the certification found in Exhibit 3. Certifications will be returned to, and kept on file by, the Human Resources Department.

V. REPORTING SYSTEM

A. Questions about the Code

Employees, consultants, and agents are encouraged to contact the Compliance Officer or a supervisor concerning questions about the Code. Responsibility for compliance with this Program, **including the duty to seek guidance when in doubt**, rests with each employee, consultant, and agent of the Company. The Compliance Officer is available to discuss the propriety of individual's conduct and the requirements of the Company's ethics and compliance policies and procedures. The Compliance Officer will also assist an employee, consultant, or agent if he or she needs advice about the propriety or legality of some action he or she proposes to take on behalf of AES.

B. Reports of Misconduct

Employees, consultants, and agents are required to report any activities believed, in good faith, to be unethical, illegal, or a violation of Company policy. It is better to err on the side of reporting than to let a possible violation go unreported. A knowing failure to report a violation is itself a violation of Company policy. It is Company policy not to retaliate against any employee, consultant, or agent who makes a good faith report or inquiry.

The Company has established a toll-free "Helpline" to assist employees, consultants, and agents in reporting possible misconduct. This telephone line is available 24 hours a day, 365 days a year. The existence of the line will be publicized throughout the Company on posters in common working areas. Although calls can be made anonymously, the Company encourages callers to identify themselves so the Company can obtain further information and report the resolution of the matter to the caller.

C. Investigating Reports of Misconduct

Every supervisor or manager who receives a report of possible misconduct shall promptly contact the Compliance Officer. Promptly upon receiving the report, the Compliance Officer shall initiate a preliminary inquiry into the matter.

TO: AES HUMAN RESOURCES DEPARTMENT

I certify that I have received and read the AES Code of Conduct and Business Ethics and understand that it represents Company policy. In addition, I understand that, by signing my name below, I am certifying that I am familiar with and will comply with the Code requirements and will promptly report to my supervisor or the AES Compliance Officer information concerning any violation of the Code. I understand that I will be subject to disciplinary action if I violate any provision of this Code, including my obligation to report violations.

Signature

Date

TO: AES EMPLOYEE PERSONNEL FILE

I certify that during an annual review of _____, the
(Name)

following items were discussed:

- (a) the content and application of the Code and the reporting channels that are available to employees at the Company;
- (b) that strict adherence to sound ethical standards and integrity, as well as compliance with the Code and other Company policies, are conditions of employment; and
- (c) that the Company will take disciplinary action, including termination, for violation of the Code, applicable laws, regulations, or basic tenets of business honesty and integrity.

Signature (Manager/Supervisor)

Manager/Supervisor Name (Please Print)

Date

TO: AES OPERATIONS MANAGER

I certify that I have received and read the AES Code of Conduct and Business Ethics and understand that it represents Company policy and a condition of my consultant agreement. In addition, I understand that, by signing my name below, I am certifying that I am familiar with and will comply with the Code requirements and will promptly report to the AES Operations Manager or the AES Compliance Officer information concerning any violation of the Code. I understand that my consultant agreement may be terminated if I violate any provision of the AES Code, including my obligation to report violations to AES.

Signature

Date

REPORT OF MISCONDUCT PROTOCOL

This protocol sets forth the steps to be followed in recording reports of misconduct and administering the Helpline.

- 1.0 Helpline: A record should be maintained of ***all*** calls placed to the Helpline, no matter whether a particular call describes a possible compliance violation or an unrelated matter. Therefore, the following steps must be followed:
 - 1.1 The Helpline voice-mailbox will be checked daily.
 - 1.2 Each message left on the Helpline voice-mailbox will be typed verbatim on a Helpline Call Intake Sheet.
 - 1.3 The following information will be recorded on the Report Summary Log Sheet: The date and subject of the call, the caller's name (if given or known), the nature of the caller's concern, the status of the follow-up or investigation, and the resolution of the call.
 - 1.4 The Summary Log Sheet will be updated periodically to reflect changes in the status and resolution of each call.
- 2.0 Other Reports: Similarly, reports of misconduct made by individuals through channels other than the Helpline that come to the attention of the Compliance Officer should be recorded on the Report Summary Log Sheet. The Summary Log Sheet will be updated periodically to reflect changes in the status and resolution of each report.
- 3.0 The Summary Log Sheet will be maintained in a secure location accessible only at the direction of the Compliance Officer and in a manner which ensures preservation of confidentiality and legal privileges and rights.
- 4.0 The Compliance Officer will review the Summary Log Sheet on a daily basis and take steps to ensure that all Helpline calls and other reports are properly addressed so that appropriate resolution can be reached. To protect the Company's interest, it is essential that the follow-up of calls and reports be thorough, objective, and timely. Accordingly, these steps are to be followed:

- 4.1 The Compliance Officer will contact the caller/reporter (if known) to provide notification that the call/report has been received. Additional facts and information should be requested from the individual and a commitment that periodic feedback will be provided should be made, as appropriate.
- 4.2 Based on the information provided by the caller/reporter, the Compliance Officer will analyze all information provided and determine whether he, or a Company department, should follow-up with the call/report to reach an appropriate resolution.
- 4.3 If a call/report is to be assigned to another department for follow-up and resolution, the Compliance Officer will ensure he/she receives regular feedback from that department so that the status of the follow-up and resolution is tracked and recorded on the Summary Log Sheet.
- 4.4 If a call/report is to be addressed by the Compliance Officer, the Compliance Officer will determine whether the call/report involves an allegation relating to a Government program or contract or an allegation involving a possible legal violation. If the call/report involves either of these types of allegations, the Chief Manager should be notified and consideration given to a possible investigation, as described in the Investigation Protocol. If the call/report does not involve either of these types of allegations, the Compliance Officer will take the steps necessary to ensure thorough follow-up and resolution of the call/report and will record the status of the follow-up and resolution on the Summary Log Sheet.

AES
HELPLINE CALL INTAKE SHEET

Call Number _____

Date:

Caller:

Message:

AES
REPORT SUMMARY LOG SHEET

<u>Report #</u>	<u>Date of Report</u>	<u>Caller Name</u>	<u>Subject</u>	<u>Status of Follow-up</u>	<u>Resolution (nature/date)</u>
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INVESTIGATION PROTOCOL

This protocol sets forth the steps to be followed in conducting an investigation of a report of unethical or illegal conduct or a violation of Company policy.

If the Compliance Officer believes that a report of misconduct, via a Helpline call or otherwise, involves an allegation relating to a Government program or contract or an allegation involving a possible legal violation, the Chief Manager shall be notified and a decision whether an internal investigation will be initiated will be made by the Compliance Officer. The following steps will be followed, to the extent deemed necessary by the Compliance Officer:

- 1.0 The Compliance Officer will notify the Chief Manager of the allegation. Where the allegation involves the Chief Manager, the Compliance Officer will notify the Human Resources Manager or the Operations Manager.
- 2.0 The Compliance Officer will develop a plan for conducting each investigation. The plan of investigation should include the following, as well as other steps as appropriate to a particular investigation:
 - 2.1 The timing and priority of the investigation;
 - 2.2 The investigatory steps needed (*e.g.*, employee interviews, document review, research into contractual or legal requirements);
 - 2.3 The resources (particularly personnel) needed to conduct the investigation (*e.g.* internal audit, legal counsel, security personnel);
 - 2.4 Preliminary actions required;
 - 2.5 Any appropriate initial notice to other organizations or third parties, including governmental entities;
 - 2.6 Assignment of specific responsibilities for implementing the plan of investigation; and
 - 2.7 Consideration should be given to informing appropriate management (at least one level above the highest level of

apparent involvement in the activity being investigated) of the investigation.

- 3.0 Consideration will be given to providing status reports to higher-level management with responsibility for the activity being investigated assuming there is no belief of involvement of management in the alleged misconduct. Management shall not interfere with the investigation in any manner, including:
 - 4.1 Discussing the investigation with others, particularly any employee, consultant, or agent who may be a subject of the investigation, without prior approval from the Compliance Officer;
 - 4.2 Taking premature action such as disciplinary action; or
 - 4.3 Retaliating against an employee, consultant, or agent who reports a concern to the Compliance Officer, is a subject of the investigation, or participates or cooperates in an investigation.
- 5.0 Upon completion of the investigation (or at any time during the investigation if interim actions such as suspension of an employee appears warranted), the Compliance Officer will report promptly the results of the investigation to appropriate management
- 6.0 Subject to the inputs discussed below, the Compliance Officer and management will consider action based on the report of the investigation, including but not limited to one or more of the following:
 - 6.1 Disciplinary action against involved employees, consultants, and agents;
 - 6.2 Modification of procedures, including training programs, to prevent reoccurrence of any improper activities;
 - 6.3 Feedback to Company personnel, if appropriate; and
 - 6.4 Voluntary disclosure to Government officials if violations of law appear to have occurred.
- 7.0 Any action should be consistent with AES policies and with accepted patterns of action addressing analogous situations throughout the Company. The Compliance Officer has authority to review all

employee discipline relating to violations of the Code or other misconduct bearing on ethics and compliance.

- 8.0 Appropriate records of investigations will be maintained in a secure location accessible only at the direction of the Compliance Officer and in a manner that ensures preservation of legal privileges and rights.
- 9.0 In no event shall any employee of AES, including management, take direct or indirect retaliation towards employees, consultants, and agents who report in good faith possible ethics or legal violations via the Helpline or otherwise or participate or cooperate in an investigation of such a report.

CONTRACT REPRESENTATIONS AND CERTIFICATIONS

I. INTRODUCTION

It is Company policy to comply with all statutory and regulatory requirements relating to representations and certifications submitted by the Company under U.S. Government contracts, subcontracts, and other arrangements. All Company personnel are responsible for ensuring that this policy is understood and is implemented consistently with these requirements.

II. REPRESENTATIONS AND CERTIFICATIONS

A. General Requirements

AES makes many kinds of submissions and statements to the U.S. Government, prime contractors and subcontractors on U.S. Government contracts, as well as state and foreign governments, when the Company does business with these entities. These representations and certifications, including certificates of compliance, are often used by our customers to ensure that the Company meets the qualifications of contract solicitations. It is critical that the Company exercise care and due diligence in ensuring the accuracy of such statements. An understanding of the representations and certifications and the obligations which coexist with the signing of both the certification and the bid offer itself are essential.

The Company incurs a specific contractual obligation each time an offer is submitted or a Company employee signs a certificate. Even where an unauthorized person signs such a certificate, the Government regards that person as having apparent authority. Making inaccurate representations when signing certificates, regardless of whether they are made in relation to a U.S. Government prime contracts or a subcontract at any tier, may lead not only to charges of breach of contract, but also to suspension or debarment from Government contracting and subcontracting. The making of false claims and/or false statements also may result in criminal charges against the Company and individual employees. This policy is not intended to address all possible representations or certifications.

B. Common Representations and Certifications Clauses

The following representation and certification clauses are frequently included in solicitations and contracts for commercial items and services:

Certificate of Independent Price Determination (FAR 52.203-2). This clause is included in solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated. A certification of independent price determination is intended to prevent collusion between and among prospective

contractors. The bidder must certify that its prices were not disclosed to or discussed with other offerors or competitors and that it has complied with the law against collusive bidding. As provided in the clause, each signature on the offer is considered to be a certification that the signatory has complied with the law against collusive bidding. Prior to signing the offer, each Company signatory shall ensure they read and comply with the requirements of FAR 52.203-2(b). Refusal or inability to certify to such a provision may result in the Government's rejection of the bid or proposal or the annulment of the contract. Certifying a false statement regarding price determination may violate antitrust statutes, the False Statements Act, the Criminal False Claims Act and conspiracy statutes.

False Statements in Bids (FAR 52.214-4). This clause is included in all invitations for bids. The False Statement in Bids provision provides that bidders must provide full, accurate and complete information, as required by the Government Invitation for Bid ("IFB"). This provision ensures that the Government has all necessary information needed to evaluate competitive bids and fairness to competing bidders and the Government in the award. Violation of this provision invokes such actions as the annulment of the contract, suspension or debarment from Government contracting and subcontracting. The criminal penalty for making false statements is prescribed in 18 U.S.C. § 1001.

Certificate of Conformance (FAR 52.246-15). This clause is included in solicitations and contracts for supplies or services when acceptance on the basis of a certificate of conformance is in the Government's interest, and small losses would be incurred in the event of a defect or it is likely, based on the contractor's reputation or past performance, that the supplies or services will be acceptable and any defective work replaced, corrected, or repaired without contest. This provision allows the Government to rely on certificates of conformance in certain circumstances, but does not prejudice the Government's right to inspect supplies. Even in contracts where this provision is not included, however, contractors must be vigilant with regard to every certification they sign, as strict compliance is a requirement for U.S. Government contracts. The criminal penalty for false certification is prescribed in 18 U.S.C. § 1001.

Equal Opportunity (FAR 52.222-26). This clause is included in all solicitations and contracts unless the contract is exempt from all of the requirements of Executive Order 11246. The provision requires an offeror to comply with equal opportunity requirements promoting Government policy against discrimination and prohibiting the award of Government contracts to those who discriminate. The provision requires the offeror to agree that, during performance of the contract, it will not discriminate as to race, sex, color, religion or national origin. Further, the offeror agrees to take affirmative steps to ensure non-discrimination, including the posting of notices to inform employees of whom to contact in cases of discrimination and that it will comply with the equal opportunity clause, as well as Executive Order

11246, as amended. Violation of this provision may result in annulment of the contract, suspension or debarment from Government contracting and subcontracting, civil monetary penalties under Executive Order 11246, publication of names of the non-complying contractor, and criminal actions instituted by the Department of Justice and the Equal Employment Opportunity Commission (“EEOC”).

Certification of Non-Segregated Facilities (FAR 52.222-21). This clause is included in all solicitations when the Equal Opportunity clause (52.222-26) is included in the solicitation and contract. Certification as to the non-segregation of facilities ensures that neither the offeror, nor any of its proposed subcontractors, operates segregated facilities. This implements Government policy not to award contracts to contractors who maintain segregated facilities. The Company certifies that it does not and will not maintain segregated facilities for its employees and, further, that the Company agrees to obtain identical certifications from any proposed subcontractors.

Previous Contracts and Compliance Reports (FAR 52.222-22). This clause is included in all solicitations when the Equal Opportunity clause (52.222-26) is included in the solicitation and contract. This representation addresses the existence of equal opportunity compliance reports by the offeror on file with the Government and enables review of those reports before contract award. The Company represents that it has or has not participated in previous contracts or subcontracts which are subject to an Equal Opportunity clause. Violation of this provision may result in the rejection of the bid if no representation is made. Suspension or debarment from Government contracting or Government-approved subcontracting may be imposed if the certification is false, and criminal penalties may be imposed under the False Statements Act.

Affirmative Action Compliance (FAR 52.222-25). This clause is included in all solicitations where the Equal Opportunity clause (FAR 52.222-26) is included in the solicitation and contract. This representation regarding the filing of an offeror’s affirmative action program reports with the Government enables review of those reports before contract award. Also, the representation states that the Company has or has not participated in previous contracts or subcontracts that are subject to the written affirmative action program requirements. Violation of this provision may result in the rejection of the bid or proposal if no certification is made. Suspension or debarment from Government contracting and Government-approved subcontracting also may be imposed if the Certification is false, and in criminal penalties under the False Statements Act.

Gratuities (FAR 52.203-3). This clause is included in solicitations and contracts with a value exceeding the simplified acquisition threshold (currently \$100,000). Generally, this provision prohibits the Company, its agents or representatives from offering or giving a gratuity to a Government official, officer or employee with the

intent to obtain a contract or favorable treatment under a contract. The Government may terminate the contract in addition to civil, criminal and other administrative penalties, including suspension or debarment from Government contracting and Government-approved subcontracting.

Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (FAR 52.203-11). This clause is included in solicitations expected to exceed \$100,000. U.S. law prohibits Government contractors from using federal appropriated funds to pay any person for influencing an officer or employee of any federal agency or a member, officer or employee of Congress in connection with the awarding or modifying of a contract or federal non-procurement action. This provision provides that the offeror, by signing its offer for a federal transaction, certifies that it has not and will not use federal appropriated funds to influence the transaction. And that, if funds other than appropriated funds were or are used to influence the transaction, the offeror will file an OMB standard form LLL, “Disclosure of Lobbying Activities” to the contracting officer.

III. HOW TO COMPLY

AES employees, consultants, and agents will take the following steps to ensure accurate representations and certifications are made by the Company to the U.S. Government:

- ❖ The Operations Manager, in cooperation with the Quality Manager, shall ensure that all certificates submitted to the Government in connection with offers are accurate, complete and do not contain any false statements of information.
- ❖ The Operations Manager will prepare a compliance checklist for certifications required in solicitations and invitations for bids. This checklist should be used to verify the existence and location of appropriate back-up material to support the certifications. The back-up material supporting the certifications should include documents such as the appropriate Company policy, documentation of training sessions, documentation of audit procedures, applicable financial control procedures and other documents, as needed.
- ❖ Any Company employee who knows of any violation of this policy or the representations and certifications that have been made, or suspects that a violation has taken place or could take place, immediately must advise the Compliance Officer.
- ❖ Laws, regulations and contractual requirements are subject to change, which could require revision to this policy. All personnel shall remain current with any such changes and shall comply with such changes, regardless of whether

or not the change has been incorporated into this policy. Any questions regarding conflicts with this policy shall be addressed to the Compliance Officer. Recommendations for revisions to this policy shall be made to the Compliance Officer.

PREVENTION OF FALSE CLAIMS AND FALSE STATEMENTS

I. POLICY

It is Company policy to assure accuracy in every writing we submit to our customers, from invoices to certifications to proposals, so the Company is not accused of submitting false claims and statements. Extra care must be taken when we make submissions to federal, state, or local governments. All Company personnel are responsible for ensuring that this policy is understood and is implemented consistently with these requirements.

II. STATUTORY REQUIREMENTS

The Company is asked to furnish numerous types of submissions, certifications, and representations to its government customers. Often, these materials impose significantly more disclosure and other legal obligations on the Company than exist in the commercial marketplace. Examples include proposal information, pricing data and estimates, invoices, and socio-economic assurances. Our government customers often rely on this information to select and award contracts and contract modifications and to make payments to contractors such as AES. In all circumstances, the government expects that these submissions, certifications, and representations are truthful and accurate. A violation of the laws on providing accurate statements to federal, state, and local governments can result in severe legal and financial consequences, including criminal fraud repercussions; therefore, the Company and its employees must be scrupulous when communicating anything to the Government.

Our government customers use many different terms to express affirmation by a contractor, including:

- ❖ represent
- ❖ state
- ❖ warrant
- ❖ declare
- ❖ certify

Even checking a box can be considered a “statement,” with legal consequences if the information is not accurate and truthful.

Other examples where a contractor can be accused of submitting “false claims” or “false statements” can arise in connection with the following:

- ❖ submission of erroneous payroll records in cost reimbursement contracts, or substituting employees not approved under key personnel clauses.
- ❖ collusive bidding where the government takes the position that the award of the contract is tainted and the invoices are therefore false.
- ❖ inaccurate or inflated contract claims or requests for equitable adjustments.
- ❖ inaccurate or inflated requests for cost reimbursement items.
- ❖ failure to deliver level of service specified in a contract, including a specific number of protective security detail personnel.
- ❖ signing a certificate of conformance where the product does not meet every contractually required specification.

III. HOW TO COMPLY

Employees who are responsible for preparing the underlying documentation to support a claim, proposal, or other submission must assure the accuracy of the information by engaging in “due diligence.” This includes understanding the meaning of the certification or statement the Company is being asked to sign or submit, as well as contacting employees at the Company who are in positions to know if the information the Company intends to furnish is accurate and complete. Employees must take every exercise associated with submitting information to the Government seriously and review the underlying requirements associated with those certifications and other submissions.

Any Company employee who knows of any violation of this policy or suspects that a violation has taken place or could take place must immediately advise the appropriate supervisor or other Company management, or the Compliance Officer.

Laws, regulations, and contractual requirements are subject to change, which could require revision to this policy. All personnel shall keep themselves current with any such changes and shall comply with such changes, regardless of whether or not the change has been incorporated into this policy. Any questions regarding conflicts with this policy shall be addressed to the Compliance Officer. Recommendations for revisions to this policy shall be made to the Compliance Officer.

PROCUREMENT INTEGRITY: OFF-LIMITS INFORMATION

I. INTRODUCTION

It is Company policy to comply strictly with federal law restricting access to protected acquisition information. All personnel are responsible for ensuring that this policy is understood and implemented consistently with these requirements.

II. PROCUREMENT INTEGRITY

Federal law known as the “procurement integrity provisions” addresses restrictions on the exchange of protected information, including contractor bid and proposal information, and Government source selection information. These provisions make it illegal for a company to have in its possession or use certain types of information. During the competitive procurement process, certain information generally may not be requested or obtained by the Company, unless the information is released to all competitors. Therefore, it is important for Company personnel to be alert when offered information that is marked in any of the following ways:

- ❖ Source Selection or Procurement Integrity Sensitive
- ❖ Company Proprietary or Trade Secrets
- ❖ For Official Use Only (FOUO)
- ❖ Not Releasable Under the Freedom of Information Act
- ❖ Draft – Not For Release Outside of the Government

In addition, certain other information about the Company’s competitors is off limits irrespective of any legends or other markings. This includes cost or pricing data and proprietary information and trade secrets. Information available publicly, such as on a competitor’s website, does not fall into these protected categories.

Always exercise due diligence to assure that the Company is authorized to receive information provided by Government employees or third parties, including consultants. Company personnel cannot assume that AES is permitted to receive all information it is offered. **If you receive information that you are not sure you or the Company should have, contact the Compliance Officer before reviewing the information. Also, do not share the information with anyone in the Company before obtaining clearance to do so from the Compliance Officer.** Definitions of the key procurement integrity terms are included in Section III below and practical guidance for avoiding procurement integrity violations is included in Section IV below.

After the procurement process is complete, some otherwise protected information may be releasable by the U.S. Government under the Freedom of Information Act or during debriefings held by the Government. Debriefings are meeting between the Government and unsuccessful offerors and occur after the Government has announced the award of a contract. Company personnel should consult with the Compliance Office about appropriate avenues to obtain information.

The procurement integrity provisions prohibit the filing of a bid protest with the Government Accountability Office against the award or proposed award of a contract alleging a violation of any one of the procurement integrity provisions unless the protester first reports to the federal agency responsible for the procurement no later than fourteen (14) days after the person becomes aware of the possible violation.

It is essential that Company personnel understand what conduct is prohibited under the procurement integrity provisions and that information concerning a possible violation by the Government or our competitors be brought to the immediate attention of the Compliance Officer, so that an early assessment can be made regarding the 14-day reporting requirement.

III. DEFINITIONS

For purposes of this policy, the following Federal Acquisition Regulation (“FAR”) definitions and associated clarifications apply:

- ❖ “Source Selection Information” is information that is prepared for use by a federal agency for the purpose of evaluating a bid or proposal to enter into a federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly. This includes:
 - a) Bid prices submitted in response to a federal agency invitation for bids or lists of those bid prices before bid opening;
 - b) Proposed costs or prices submitted in response to a federal agency solicitation or lists of those proposed costs or prices;
 - c) Source selection plans;
 - d) Technical evaluation plans;
 - e) Technical evaluations of proposals;

- f) Cost or price evaluations of proposals;
 - g) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract;
 - h) Rankings of bids, proposals or competitors;
 - i) Reports and evaluations of source selection panels, boards or advisory councils; and
 - j) Other information marked as “SOURCE SELECTION INFORMATION--SEE FAR 3.104,” based on a case-by-case determination by the head of the Government agency or designee or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the federal agency procurement to which the information relates.
- ❖ “Contractor Bid or Proposal Information” is information submitted to a federal agency as part of or in connection with a bid or proposal to enter into a federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly. This includes:
- a) Cost or pricing data (as defined by 10 U.S.C. 2306a(h), with respect to procurements subject to that section and section 304A(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h), with respect to procurements subject to that section);
 - b) Indirect costs and direct labor rates;
 - c) Proprietary information about manufacturing processes, operations or techniques marked by the contractor in accordance with applicable law or regulation; and
 - d) Information marked by the contractor as “contractor bid or proposal information” in accordance with law or regulation.

IV. HOW TO COMPLY

All Company personnel shall evaluate carefully the facts and circumstances involved as to the status of source selection and contractor bid or proposal information offered to, requested by or obtained by the Company to ensure compliance with this policy. This includes:

- ❖ Obtaining source selection and contractor bid or proposal information only as authorized for release by the Government agency.
- ❖ Being cautious before receiving oral or written extracts of source selection or contractor bid or proposal information by making appropriate inquiries to the Contracting Officer.
- ❖ Abiding by restrictive markings placed on information by the Government or our competitors.
- ❖ Knowing or determining the meaning and application of restrictive markings (e.g., classified, proprietary, source selection sensitive, trade secrets, FOUO and competition sensitive), as follows:
 - (a) Observe markings unless properly removed by the Government.
 - (b) Do not seek or receive contractor bid or proposal information or Government source selection information from the Government or anyone else.
 - (c) Be aware that the Government does not necessarily mark all Government source selection information with any particular legend. Whether or not marked, the material listed under Section III above is considered source selection information and should neither be sought nor received.
 - (d) Avoid circumstances of receiving or using contractor bid or proposal or source selection information under conditions that might reasonably create an appearance of impropriety or irregularity; therefore, do not seek or accept such information under less than fully open circumstances or when the circumstances might indicate that release of the information is unauthorized or improper.
 - (e) If information is received that might be regarded as suspect, document the facts and circumstances that indicated it was proper for you to receive and use this information. In questionable circumstances, if the facts and circumstances suggest that the Company is not entitled to retain such information, consult the Compliance Officer regarding the appropriate return or retention and reporting of such information.
 - (f) Ensure that all Company information provided to the Government appropriately is labeled as “Competition Sensitive” and “Proprietary Information,” as the case may be, to preclude its improper release to other offerors or contractors.

- (g) Observe laws, regulations and Company policy regarding business meals, gifts, entertainment and discussions with Government employees.
- ❖ All Company employees shall be familiar and comply with the procurement integrity restrictions regarding discussions and employment of U.S. Government personnel.
 - ❖ Any Company employee who knows of any violation of this policy or suspects that a violation has taken place or could take place, must immediately advise the Compliance Officer.
 - ❖ Laws, regulations and contractual requirements are subject to change, which could require revision to this policy. All personnel shall remain current with any such changes and shall comply with such changes, regardless of whether or not the change has been incorporated into this policy. Any questions regarding conflicts with this policy shall be addressed to the Compliance Officer. Recommendations for revisions to this policy shall be made to the Compliance Officer.

**GIFTS TO EXECUTIVE BRANCH GOVERNMENT EMPLOYEES AND
EMPLOYEES OF PRIME CONTRACTORS OR
HIGHER TIERED SUBCONTRACTORS**

I. INTRODUCTION

It is Company policy to comply with all statutory and regulatory requirements relating to providing gifts to U.S. Government Executive Branch personnel (including political appointees, civilian employees, and military personnel). This policy governs all gift-giving by Company personnel to U.S. Government Executive Branch employees and to employees of prime contractors or higher tiered subcontractors. All Company personnel are responsible for ensuring that this policy is understood and implemented consistently with these requirements.

II. GIFTS

For this policy, the term “gift” is defined as “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance or other item having monetary value,” including “services, training, transportation, lodging and meals, whether provided in kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.” A gift does not include something for which the Executive Branch, prime contractor, or higher tiered subcontractor employee pays market value, or something not used and promptly returned to the giver.

III. OFFERING GIFTS TO EXECUTIVE BRANCH, PRIME CONTRACTOR, OR HIGHER TIERED SUBCONTRACTOR PERSONNEL

A. Requirements

Executive Branch personnel are subject to strict restrictions on the gifts that they may accept from sources outside the U.S. Government. Generally, they may not accept gifts that are given because of their official position or that come from certain “prohibited sources.” These sources include persons (or an organization made up of such persons) who:

- ❖ are seeking official action by the Executive Branch employee;
- ❖ are doing or seeking to do business with the Executive Branch employee’s agency;
- ❖ are regulated by the Executive Branch employee’s agency; or

- ❖ have interests that substantially may be affected by performance or nonperformance of the Executive Branch employee's official duties.

The Anti-kickback Act governs gifts and entertainment between prime contractor and subcontractor employees. A "bribe" is a thing of value given with the specific intent to influence. There is bribery of government officials under federal law, as well as "commercial bribery" under state law that applies to relationships between prime contractors and subcontractors. The intent to influence Executive Branch, prime contractor, or higher tiered subcontractor personnel through a bribe is illegal and contrary to AES policy. A bribe need not be proven by direct evidence, but may be inferred from the surrounding circumstances. Thus, even if the giver does not believe that he or she is intending to influence the Executive Branch, prime contractor, or higher tiered subcontractor personnel, the inference may be difficult to overcome, depending on the surrounding circumstances. An innocent gift can be mistaken for a bribe in some instances.

B. Exceptions

There are exceptions to the ban on gifts, which allow for the acceptance by Executive Branch employees of gifts in the following circumstances:

- ❖ where the value of the gift is \$20 or less, if the aggregate value of all gifts from one source is less than \$50 in a calendar year;
- ❖ where the gift is based solely on a family relationship or personal friendship;
- ❖ where the gift is based on a proper outside business or employment relationship; or
- ❖ where the gift is in connection with certain proper political activities.

Also, Executive Branch personnel may accept gifts of free attendance at certain widely attended gatherings, provided that there has been a determination by the agency that attendance is in the interest of the agency. Invitations from non-sponsors of the event may be accepted, provided that certain additional conditions are met.

Another exception to the gift rule applies to meals, refreshments and entertainment in foreign areas. Specifically, food, refreshments and entertainment in the course of a breakfast, luncheon, dinner or other meeting or event may be provided to Executive Branch personnel, provided that:

- ❖ the market value in the foreign area of the food, refreshments or entertainment, as converted to U.S. dollars, does not exceed the per diem rate for the foreign area;
- ❖ there is participation in the meeting or event by non-U.S. citizens or by representatives of foreign governments or other foreign entities;
- ❖ attendance at the meeting or event is part of the Executive Branch employee's official duties; and
- ❖ the gift of meals, refreshments or entertainment is not from a foreign government.

There are other exceptions for discounts, awards and honorary degrees, and certain social events, although these exceptions are subject to some limitations on their use. For example, Executive Branch personnel can never solicit or coerce the offering of a gift. Nor can Executive Branch personnel use exceptions to accept gifts on such a frequent basis that a reasonable person would believe that the Executive Branch person was using public office for private gain.

Finally, some things are not treated as gifts and may be accepted by Executive Branch personnel without any limitations, such as modest refreshments (*e.g.*, coffee and donuts), greeting cards, plaques and other items of little intrinsic value, and rewards and prizes open to the general public.

C. How to Comply

- ❖ Before any Company employee gives a gift to Executive Branch, prime contractor, or higher tiered subcontractor personnel, the employee must obtain approval from the Human Resources Manager.
- ❖ With respect to federal employees, the Human Resources Manager may approve a gift only after determining that (a) the retail value of the item is not more than \$20 (and does not exceed the annual \$50 limit) or complies with the rules for meals, refreshments and entertainment in foreign areas, (b) the giving of the gift in question is not for the purpose of influence in the discharge of official duties, and (c) it is highly unlikely that the gift will be perceived as being offered for such purpose. Gifts to prime contractor or higher tiered subcontractor personnel must meet the criteria in (a) through (c) above, except that the monetary limit is \$50 per person, per occasion, rather than \$20.
- ❖ On occasion, the Company may be involved in conducting all or a portion of an industry-sponsored function through an industry association. When

it is determined by the Chief Manager that is it necessary or desirable for attendance of Executive Branch, prime contractor, or higher tiered subcontractor personnel at an industry-sponsored function, the invitation of Executive Branch, prime contractor, or higher tiered subcontractor personnel shall be approved by the Compliance Officer.

IV. EMPLOYEE RESPONSIBILITIES

Any Company employee who knows of any violation of this policy, or suspects that a violation has taken place or could take place, must immediately advise his/her supervisor or the Compliance Officer.

Laws, regulations and contractual requirements are subject to change, which could require revision to this policy. All personnel shall keep themselves current with any such changes and shall comply with such changes, regardless of whether or not the change has been incorporated into this policy. Any questions regarding conflicts with this policy shall be addressed to the Compliance Officer. Recommendations for revisions to this policy shall be made to the Compliance Officer.

GOVERNMENT PROPERTY

I. INTRODUCTION

It is AES policy to comply with Federal Acquisition Regulation (“FAR”) Part 45, which contains the regulations on U.S. Government policies and procedures concerning Government property. All Company personnel are responsible for ensuring that this policy is understood and implemented consistently with these requirements.

II. REGULATORY REQUIREMENTS

Under FAR 45.101, “Government property” means “all property owned by or leased to the Government” and “includes both Government furnished property and contractor acquired property.”

- ❖ “Government furnished property” is defined as “property in the possession of, or directly acquired by, the Government and subsequently furnished to the contractor for performance of a contract.”
- ❖ “Contractor acquired property” means “property acquired, fabricated, or otherwise provided by the contractor for performing a contract and to which the Government has title.” Title to contractor acquired property passes to the Government upon use or Government payment, whichever occurs first.

Each contract awarded by the Government may be expected to include a Government Property Clause. The standard clause (FAR 52.245-1) requires the Company to comply with FAR Part 45, thereby incorporating FAR Part 45 into the contract. In addition, the clauses provide that equitable adjustment is the contractor’s exclusive remedy for disputes arising under the Government Property Clause.

Each company is responsible and accountable for all Government property in accordance with the requirements of the Government contracts awarded to or performed a particular company. This includes Government property in the possession or control of subcontractors.

A company’s property records are regarded as official Government records. These property records positively must track all Government property and must include the following:

- ❖ Name, description and national stock number of the property
- ❖ Quantity
- ❖ Unit acquisition cost

- ❖ Unique item identifier or equivalent (if available and necessary for individual item tracking)
- ❖ Unit of measure
- ❖ Contract number under which the property has been furnished or acquired
- ❖ Specific location of the property
- ❖ Property disposition
- ❖ Posting reference and date of transaction
- ❖ Date placed in service

A company with Government property is required to establish and maintain a system in accordance with the requirements of FAR Part 45 to control, protect, preserve and maintain all Government property. This property control system shall be in writing and is subject to periodic Government review by the Government property administrator.

III. HOW TO COMPLY

- ❖ The Operations Manager shall designate a “Government Property Administrator,” who shall have authority and accountability to fulfill the requirements of FAR Part 45.
- ❖ The Government Property Administrator shall maintain and make available to the Government on its request the records required by FAR Part 45, which shall properly account for all Government property.
- ❖ Laws, regulations and contractual requirements are subject to change, which could require revision to this policy. All personnel shall remain current with any such changes and shall comply with such changes, regardless of whether or not the change has been incorporated into any given version of the policy. Any questions regarding conflicts with this policy shall be addressed to the Compliance Officer.
- ❖ Recommendations for revisions to this policy shall be made to the Compliance Officer.

ITAR/EXPORT CONTROLS

I. INTRODUCTION

It is Company policy to comply with all applicable U.S. laws and regulations pertaining to exports of products and technology by or on behalf of the Company. These laws and regulations govern the export of defense article and defense services, and the export of commercial non-defense or “dual-use” items, which includes hardware, software and technology. All Company personnel are responsible for ensuring that this policy is understood and implemented in a manner consistent with these requirements.

II. EXPORT CONTROL REQUIREMENTS

A. International Traffic in Arms Regulations (“ITAR”)

AES’s business activities include the export of certain defense-related hardware and/or technical data that are subject to export restrictions under the International Traffic in Arms Regulations (“ITAR”), 22 C.F.R. Parts 121-130. The ITAR implements the Arms Export Control Act of 1968, as amended (22 U.S.C. 2778) and is administered by the Department of State’s Directorate of Defense Trade Controls (“DDTC”). The ITAR governs the export of items in three categories:

- ❖ Defense articles – items that are designed, developed, configured, adapted or modified for a military application. An item is a “defense article” if it is included in the categories of items set forth on the U.S. Munitions List, 22 C.F.R. Part 121.
- ❖ Defense-related technical data – information that is required for the design, development, production, manufacture, assembly operation, repair, testing, maintenance or modification of a defense article. Technical data may be in the form of blueprints, drawings, photographs, plans, instructions, documentation, or other forms of technical information.
- ❖ Defense services – the furnishing of any type of assistance (including training) to foreign persons, whether in the U.S. or abroad, that relates to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, or use of any defense article.

As an exporter of defense articles, technical data and defense services, AES is registered with DDTC pursuant to ITAR Part 122. AES shall ensure that its registration under the ITAR remains current at all times. To do so, the Company

will establish an internal notification system that prompts the Company to send a new registration statement to DDTC approximately two months in advance of the expiration of the current registration.

Any export of defense services, defense articles or technical data requires authorization under the ITAR. In most cases, specific authorization from DDTC, in the form of an export license or approved agreement, is required; in some cases, a license exemption under the ITAR may be available. AES' policy is to ensure that the appropriate form of authorization is received prior to any export of a defense service, defense article, or technical data.

Certain countries are subject to UN multilateral or U.S. unilateral arms embargoes. No AES employee shall transfer, or even offer to transfer, any defense services, defense articles or technical data to such embargoed countries without approval by the Chief Manager. Countries currently subject to a partial or comprehensive arms embargo include: Afghanistan, Burma (Myanmar), Belarus, China, Cote d'Ivoire, Cuba, Cyprus, Dem. Rep. of the Congo, Eritrea, Haiti, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Rwanda, Sierra Leone, Somalia, Sri Lanka, Sudan, Syria, Venezuela, Vietnam, Yemen, and Zimbabwe.

B. Export Administration Regulations

AES' activities may also involve the export of commercial hardware that is considered "dual-use" and accordingly subject to the Export Administration Regulations ("EAR"), 15 C.F.R. Parts 730-774. The EAR implements the Export Administration Act of 1979, as amended (50 U.S.C. 2401) and is administered by the Department of Commerce's Bureau of Industry and Security. Items for which individual licenses may be required are identified on the Commerce Control List ("CCL"), 15 C.F.R. Part 774, although some requirements of the EAR extend to unlisted items – referred to as EAR 99 – that are subject to the EAR (usually because of the U.S. content or origin).

U.S. export regulations are complex and are subject to frequent modifications. All AES employees who participate in export activities are required to be familiar with and to comply with the ITAR and the EAR. Violations of U.S. export regulations can result in severe criminal, civil and administrative penalties for the Company and individuals involved, as well as in the Company's loss of export privileges.

III. HOW TO COMPLY

AES has appointed an Empowered Official, who shall be responsible for managing the requirements of the export control compliance program within the Company and who shall ensure that the requirements of the ITAR and the EAR are met within the Company. Only the Empowered Official shall have the authority to sign license

applications or other requests for export authorizations to the appropriate export control agency.

- ❖ The Empowered Official shall ensure that all exports of defense services, defense articles and technical data (including technical discussions with foreign nationals within the United States and abroad) are conducted in full compliance with the applicable U.S. export regulations, including both the ITAR and the EAR.
- ❖ No Company personnel shall ship hardware, software or technical data without confirming the export classification of the item(s), determining whether an export license requirement applies under either the ITAR or the EAR, and, if so, verifying with the Empowered Official that a license, license exemption, or other approval authorizes the shipment.
- ❖ No Company personnel shall disclose technical data, proposal information and marketing material to a foreign person, or ship items to or receive items from a foreign person without verification by the Empowered Official that a license, exemption or other approval authorizes the disclosure or shipment.
- ❖ No Company personnel shall train foreign persons – whether in the U.S. or abroad – in the operation, maintenance, repair or other use of any defense article without verifying with the Empowered Official that a license, exemption or other approval authorizes the contemplated defense service.
- ❖ The Empowered Official shall ensure that applicable AES employees receive annual training on U.S. export control laws and regulations. The Empowered Official shall also ensure that new hires receive initial training on U.S. export laws and regulations.
- ❖ U.S. export laws and regulations are subject to frequent changes. The Empowered Official is responsible for remaining aware of current export control policies, procedures and requirements, and informing other AES employees about any relevant changes.
- ❖ Any AES employee who knows or suspects that a violation of U.S. export regulations has occurred, or is about to occur, must immediately advise the Compliance Officer.
- ❖ Laws, regulations, and contractual requirements are subject to change, which could require revision of this policy. All personnel shall keep themselves current with any such changes and shall comply with such

changes, regardless of whether or not the change has been made to this policy. Any questions regarding the requirements of U.S. export regulations should be addressed to either the Empowered Official or the Compliance Officer. Recommendations for revisions to this policy should be made to the Compliance Officer.