

APPNDIX

QUICK REFERENCE TABLE

Written Works by Government Personnel - Copyright and Ethics Rules

Was the Work Created as Part of Official Duties?	Was Government Time or Resources Used to Create the Work?	Does a U.S. Copyright Exist and Who Holds the Copyright?	Who has Authority to Publish the Work?	May the Employee / Author Receive Compensation for the Work?
YES (Authoring the work was part of the employee's official duties)	YES (Employee/Author used government time and/or resources to create the work)	NO (No U.S. copyright exists)	GOVERNMENT** May publish after review and clearance through PAO to the appropriate government official (See AR 360-1, chs. 5 and 6).	NO Employee/Author may not realize any financial gain outside of federal salary.
NO (Authoring the work was not part of the employee's official duties)	NO (Employee/Author did not use any government time or resources to create the work. Work was created on personal time with personal resources only.)	YES (Held exclusively by Employee/Author)	EMPLOYEE / AUTHOR May publish, unless work "pertains to military matters, national security issues, or subjects of significant concern to the DoD" (<i>i.e.</i> , review and clearance through PAO is required if subject matter meets criteria of DoDI 5230.29) (See AR 360-1, Para 6-8h; DoDD 5230.09; and DoDI 5230.29).	YES Employee/Author may realize a financial gain from written work, subject to the restrictions in 5 C.F.R. § 2635.807. The most common of those restrictions prohibits compensation for a written work that: 1. Deals significantly with the employee's present assignment or with a matter which the employee had been assigned during the previous one-year period (5 C.F.R. § 2635.807 (a)(2)(i)(E)(1)) <i>or</i> 2. Deals in significant part with any ongoing or announced policy, program, or operation of the employee's agency. (5 C.F.R. § 2635.807 (a)(2)(i)(E)(2)).
	YES (Employee/Author used at least some amount of government time or resources to create the work, but not part of the employee's official duties)	YES (Held by the Employee/ Author; government effectively holds a license and is able to use, reproduce, or publish the work without infringing upon the Employee/ Author's copyright)	BOTH THE GOVERNMENT AND EMPLOYEE / AUTHOR <i>Government</i> may independently publish after review and clearance through PAO to the appropriate government official. <i>Employee/ Author</i> may independently publish, unless work "pertains to military matters, national security issues, or subjects of significant concern to the DoD" (review and clearance through PAO would be required).	

***NOTE:** *This table is for illustrative purposes only. All government employees should consult with their servicing Judge Advocate and Public Affairs Office concerning written works, release of information, and associated ethics issues.*

**** NOTE:** U.S. Copyright law does not prevent anyone (government, author, or member of the public) from publishing a work of the United States government. However, Army and DoD regulations require that a review and clearance through PAO to the appropriate government official be completed prior to releasing the information. (See AR 360-1, chs. 5 and 6). Those regulations operate independently from U.S. copyright laws.