



The
Department of the Air Force
General Counsel



Pre- and Post-Employment Restrictions

For

Separating and Retiring

Air Force Personnel



THE AIR FORCE ETHICS OFFICE SAF/GCA

Room 4C934
The Pentagon
(703) 693-0417

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GCA provides post-employment seminars for HAF and SAF employees (GS-15/O-6 and below) on Tuesdays at 1500. Call 703-693-0417 to register for a briefing. (recommended for military officers/civilians considering defense related employment in the private sector).

AF personnel assigned to 11/WG or AFDW should contact 11WG/JA or AFDW/JA (see p. 2).

Pre- and Post-Employment Restrictions For Separating and Retiring Air Force Personnel

I. Introduction^{1, 2}

- There are laws that may affect the pre- and post- employment activities of separating or retiring military members and civilian employees, including restrictions that apply to:
 - Job-hunting or seeking employment
 - Post-government employment

- The rules on post-Government employment are set out in:
 - Various Federal statutes
 - Office of Government Ethics (OGE) regulations
 - The Joint Ethics Regulation (JER), DOD 5500.7-R (for DOD personnel)

- In this bullet paper, we apply the rules to four categories of personnel. You may find yourself in one or more of these categories. If so, read the rules for each section.
 - All Air Force personnel (military and civilian)
 - Senior Government Employees (general officers and SES members)
 - Retired Military Members
 - Contracting Officials

- Contact information for post-Government employment advice:
 - For Air Force personnel assigned to the Air Staff or Secretariat, contact:
 - SAF/GCA
Room 4C934, The Pentagon, Washington, DC 20330-1740
(703) 693-0417.
 - For Air Force personnel assigned to AFDW, contact:
 - AFDW/JA
1500 W. Perimeter Road, Suite 5770
Joint Base Andrews, MD 20762
(240) 612-6091 / DSN 612-6091
 - For Air Force personnel assigned to the 11th Wing, contact:
 - 11WG/JA
1602 Brookley Ave. Rm 161
Joint Base Andrews, MD 20762
(301) 981-2042 / DSN 858-2042

¹ This handout is for general guidance only and is not to be cited as legal authority or relied upon as legal advice. Binding legal authority is found only in primary legal authority -- the Federal statutes, government regulations, and official decisions made by designated ethics counselors. Therefore, before you make any decisions that might affect your present or future endeavors, be sure that you have an accurate understanding of the law from a reliable source. Also, keep in mind that Air Force ethics counselors represent the interests of the Air Force — they do not represent you as an individual. Furthermore, legal counseling on standards of conduct is not “legal assistance.” This means that the normal confidentiality afforded a person who consults with an attorney does *not* apply to discussions on pre- and post-employment. Finally, if you need one-on-one counseling, it is important that you contact the appropriate ethics counselor.

² Attachments:

1. Sample Notice and Disqualification Letter
2. Sample Federal Government Employee Certificate of No Conflict
3. DD Form 2945

II. All Air Force Members and Employees

Pre-Separation Activities

- When job hunting, Air Force personnel should avoid the temptation of using Government resources in job searches.
- The JER prohibits the use of Government property, time, and subordinates for other than authorized purposes.
 - All of the following are examples of *misuse* of government resources:
 - An Air Force officer who uses his office computer during duty hours to prepare his resume;
 - A civilian who asks her secretary to type resume cover letters at the office;
 - An enlisted member who uses the office telephone to make long-distance telephone calls to prospective employers.
- Limited, reasonable uses of government equipment may be authorized by your supervisor or commander.
 - Do not assume that use is reasonable or authorized unless you clear it in advance. When in doubt, ask your supervisor or commander for permission.
 - Air Force personnel (officer, enlisted, and civilian) are generally not prohibited from negotiating for future employment while on active duty or employed by the Air Force. However, employees who are negotiating for future employment must:
 - Ensure that the prospect of employment does not affect the performance or non-performance of their official duties;
 - Ensure that they do not communicate “inside” or privileged information to a prospective employer; *and*
 - **Avoid any activity that would affect the public’s confidence in the integrity of the Federal government, even if such activity is not an actual violation of the law.**
 - Disqualification:
 - People searching for employment can easily lose sight of the fact that officers and civilian employees must disqualify themselves from participating in any particular matter that will have a *direct and predictable effect* on the financial interests of a person with whom they are *negotiating* or have *any arrangement* concerning prospective employment.
 - If that possibility arises, employees must disqualify themselves, in writing, from any participation in the matter. (see Attachment 1)
 - Many people find jobs by “networking” with acquaintances that work at civilian firms or companies that they deal with in their Air Force positions. This is fine, except that once you begin to actively pursue employment with a particular person or company; you are precluded from participating in an official capacity in any matter that might affect them.

Remember: An employee must notify his or her supervisor, in writing, of employment contacts that may impact his or her duties and disqualify him/herself from any further involvement with matters involving those entities. This restriction applies to everyone (civilians, officers and enlisted personnel) in any career field or occupation. A sample disqualification letter is provided as Attachment 1.

- Guidance for DOD employees is more restrictive because it specifically *includes* enlisted personnel in its coverage, and prohibits participation in any matter that could have a direct and predictable effect on a prospective employer with whom the employee is “seeking employment.”
- The phrase “seeking employment” includes:
 - communicating with another person with the goal of reaching an agreement regarding employment,
 - making an unsolicited communication regarding employment, or

- not rejecting an unsolicited communication from any person regarding possible employment.
 - *Simply sending a résumé to a specific person/company qualifies!*
 - A person is no longer seeking employment when:
 - he or she rejects the possibility of employment and all discussions terminate, or
 - when two months have transpired after sending a resume or employment proposal to a potential employer without response.
- Note:** *deferring* a discussion or decision regarding a particular employer is not equivalent to *rejecting* employment -- deferring employment means that you are still seeking employment and, therefore, the restrictions apply.

Terminal Leave

- Air Force personnel are generally required to obtain permission to engage in off-duty employment:
 - This includes all military personnel (officer and enlisted) assigned to the AFDW and all civilian personnel assigned to the AFDW who file public or confidential financial disclosure reports (i.e., OGE Form 278 and OGE Form 450).
 - This requirement also applies to employment while on terminal leave.. The request, and approval, should be accomplished in writing, via the AF Form 3902.
- Please remember that while on terminal leave, you are still an active-duty service member, and the restrictions that apply to you while on active duty still apply. (For example: Restrictions on political activities.)
- Restriction on representing others to the Federal Government:
 - You may not represent anybody outside the Government to the Government on any particular matter involving the Government.
 - Military officers working on terminal leave (like all Federal employees) are prohibited by 18 USC §205 and 18 USC §203 from representing their new employer to the Government.
 - In almost every case, this precludes a member from interacting or appearing in the Federal workplace as a contractor. Being present in Government offices on behalf of a contractor is inherently a representation.
 - Of course, military officers on terminal leave may begin work with the contractor, but only "behind the scenes" at a contractor office or otherwise away from the Government workplace.
 - Enlisted members are not subject to 18 USC §§203 or 205.

III. Post-Separation Rules for All Air Force Personnel

- The primary post-retirement restriction statute is 18 USC §207. The purpose behind the law is simple:
 - When a former Government employee who has been involved with a particular matter decides to act as the representative for another person on that same matter, the "switching of sides" undermines the public's confidence in the fairness of Government proceedings and creates the impression that personal influence gained by Government affiliation provided an advantage.
- The 18 USC §207 restrictions do not bar anyone, regardless of grade or position, from accepting employment with any private or public employer after their Government service ends.

- 18 USC §207 only prohibits individuals from engaging in certain activities on behalf of persons or entities other than the United States. In other words, the statute does not limit *who* you work for, but it may limit *what* you do for them.
- 18 USC §207 contains several substantive post-employment restrictions: three that apply to all former officers and employees; one for former “senior employees;” one for former “very senior employees;” and one for both “senior” and “very senior” employees (discussed in the section for “senior officers”).
- The following three 18 USC §207 restrictions apply to all military officers and civilian employees (but not to enlisted personnel):
- Restriction 1. 18 USC §207 (a)(1) sets out a **lifetime ban** against:
 - making, with the intent to *influence*, any *communication to* or *appearance before* an employee of the U.S. on behalf of any other person in a *particular matter* involving a *specific party* in which the employee *participated personally and substantially* as an employee, and in which the U.S. *is a party* or has a *direct and substantial interest*.
- This restriction applies to representations back to the government.
- It does not apply unless a former employee communicates to or makes an appearance before the United States, including any employee of any department, agency, court, or courts-martial of the United States. 18 USC §207(a)(1).
- The term “particular matter” includes:
 - any investigation,
 - application,
 - request for ruling or determination,
 - rule making,
 - contract,
 - controversy,
 - claim,
 - charge,
 - accusation,
 - arrest, or
 - judicial or other proceeding. 18 USC §207(i)(3).
- Additionally, the “*particular matter*” must involve the same specific party, or specific parties, at the time of the employee’s participation. 5 CFR 2641.201(h)(3).
- An employee may have participated “*personally*” in a matter even though directing a subordinate’s involvement.
- An employee may have participated “*substantially*” if his involvement was of significance to the matter.
- Participation in a single critical step may be considered substantial, while much involvement in minor issues may be insubstantial. The facts regarding the level of involvement are important to the analysis. 5 CFR 2641.201(i).

Note: Each of the key elements (italicized words above) must be present before the restriction applies. For example, an employee is not prohibited from giving “behind-the-scenes” assistance in connection with another person’s representation to the government; but, former employees are prohibited from personally communicating with a Federal employee on the same matter themselves. The restriction also does not apply to communications involving purely social interaction, requests for publicly available documents, or requests for factual information.

- Restriction 2. 18 USC §207(a)(2) sets out a very similar ban, except that it is of shorter duration (only **two years** following the employee’s termination of service) and applies only to those who had *official responsibility* for a matter that was *actually pending* during the employee’s *last year* of Government service.
- In other words, even though the employee was not “personally and substantially” involved in a particular matter, if the matter fell within his or her official responsibility during the last year of

- service, the employee is barred from communicating (with the intent to influence) with any Government employee on the same issue.
- Again, every word in the statute is narrowly defined and applied:
 - “Official responsibility” is the authority to approve or disapprove, or otherwise direct, government action. 18 USC §202(b).
 - “Actually pending under the employee’s official responsibility” is if the matter has been referred to the employee for assignment or is under consideration by any person he supervises, or any subordinate. 5 CFR 2641.202(j)(2).
 - Restriction 3. 18 USC §207(b) bars a former employee, for **one year** after his Government service ends, from knowingly *representing, aiding or advising* on the basis of *covered information*, any other person concerning any *ongoing trade or treaty negotiation* which, in the *last year* of Government service, the employee *participated personally and substantially*.
 - Trade negotiations are those undertaken pursuant to the Omnibus Trade and Competitiveness Act of 1988 (19 USC §2902). Treaties are international agreements that require the advice and consent of the Senate.
 - The term “covered information” refers to agency records which were accessible to the employee and were exempt from disclosure under the Freedom of Information Act.
 - If the restriction applies, note that it applies even to “behind-the-scenes” assistance.

IV. MORE RULES for Senior PERSONNEL (General Officers & SES’ers)

Pre-Separation

- Senior officers (general officers) and senior civilians (SES officials), like other federal employees, must comply with the Title 18 restrictions described above.
- Higher-ranking officials operate under a higher degree of scrutiny than other employees and must be especially careful to avoid even the appearance of any conflict of interest situations.
- Pursuant to the “Stop Trading on Congressional Knowledge Act” (STOCK Act)³, all **OGE Form 278 filers** are required to submit a notification and disqualification statement to their Ethics Office once they begin seeking post-Government employment with a non-Federal entity. A template for this mandatory STOCK Act notification and disqualification statement is attached as Attachment 1. Digital copies of the completed notification and disqualification statement should be submitted to your servicing Ethics Office. When in doubt, seek specific guidance from your ethics counselor.

Post-Retirement

- In addition to the post-employment rules described above, three Title 18 provisions apply only to “senior” or “very senior” employees.
 - A “senior” employee is a Senior Executive Service (SES) civilian or general officer.
 - A “very senior” employee is a person holding a position for which the rate of pay is equal to level I of the Executive Schedule and certain officials in the Office of the President. (Since “very senior” employees **do not** include general officers or most SES’ers, we have not included a discussion of them.)

³ Stop Trading on Congressional Knowledge Act (“STOCK” Act, Pub.L. 112–105, S. 2038, 126 Stat. 291, enacted April 4, 2012)

- The following two restrictions apply to all general officers and to those SES personnel whose rate of pay is equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule.
 - Currently, that means it applies to civilian employees (including SES, SL, ST, DISES, DISL, and some IPA's and HQE's) whose basic pay (without locality pay) is equal to or greater than **\$155,440.50 through 27 March 2013, and \$156,200.00 as of 7 April 2013.**
- Restriction 1. Federal statute 18 USC §207(c) is known as the “revolving door” restriction.
- This means that for **one year** after their service terminates, senior employees may not knowingly make, with the *intent to influence*, any *communication or appearance* before an employee of the *agency in which they served in the year prior to their leaving*, if the communication or appearance is made on behalf of any other person and *official action* by the agency is sought.
- The purpose of this “cooling off” period is to allow for a period of adjustment for the former senior employee and personnel at the agency served and to diminish any appearance that government decisions are being improperly influenced by the former senior employee.
- This restriction does not apply to “behind-the-scenes” assistance. However, it does *not* require that the former senior employee was “personally and substantially” involved in the matter that is the subject of the communication or appearance.
- Instead, it applies to any representation back for the purpose of influencing employees at the agency that the employee just left.

We cannot emphasize this enough -- you may not communicate back to an employee of the agency you left, for the purposes of influencing that agency, for one calendar year after you retire or separate from your Air Force position. If you do, you are subject to criminal prosecution by the Office of Special Counsel, U.S. Department of Justice.

- For most Air Force employees, the term “agency” refers to employees of the Air Force, not the Department of Defense, not the other military services, and not other Federal agencies.
 - However, if the officer leaves a job that is “dual-hatted,” such as a Unified or Joint Command position that has both Air Force and DOD responsibilities, then the one-year bar applies to *both* agencies (USAF and DOD), with some exceptions. (Note: For the purposes of this example, DOD would include any components not separately designated. The Military Departments, DISA, DLA, NGA, NRO, DTRA and NSA have been separately designated.
- Restriction 2. (18 USC §207(f)). For **one year** after their service terminates, senior and very senior employees may not *represent, aid or advise* a *foreign government or foreign political party* with the *intent to influence* the decision of an employee of *any department or agency* of the United States.
 - Note that this prohibition *includes* “behind-the-scenes” assistance, such as drafting a proposal, advising on another’s appearance, or consulting on strategies.
- In addition, you must submit a written request (see worksheet for 30 day letter in the back of this handout), to your ethics counselor for post-government employment advice before you receive compensation from any DOD contractor within the two-year period from the date you leave government service if you participated personally and substantially in an acquisition valued at \$10,000,000 **AND** held one of the following positions:
 - In the Executive Schedule (one appointed by the President and confirmed by the Senate);
 - In the Senior Executive Service; or
 - In a general or flag officer position

Termination OGE 278—Public Financial Disclosure Report

- Senior officials who are leaving government service must file a termination OGE 278 report no later than 30 days after termination and no earlier than the last day of service. In general, a termination report would cover January 1 through the last day of service.
- As annual OGE 278 reports are due on May 15 every year, if the last day of service falls before August 14, the servicing ethics counselor may be able to grant an appropriate extension to allow for the filing a combination annual/termination report. A combination annual/termination report would cover the previous calendar year through the last day of service.
- Where to file:
 - The Termination OGE Form 278 should be filed with the employee’s servicing legal office. For Air Force personnel assigned to the Air Staff or Secretariat, the form should be forwarded to: The Air Force Ethics Office, SAF/GCA, Room 4C934, The Pentagon, Washington, DC 20330-1740, (703) 693-0417.
- **Failure to file this form may result in a financial penalty.**

V. Additional Rules For Non-Career Political Appointees Subject To The Ethics Pledge Established By Executive Order 13490

Senior Appointees subject to 18 U.S.C. §207(c) (discussed in section IV, above)

- Those who have signed the Pledge, and are members of the Senior Executive Service, have agreed that the “Revolving Door” restrictions (which prohibit *communication or appearance* before an employee of the appointee’s former agency, with the intent to influence, as a representative of a third party) are applicable to them for **two years**.

Appointees Leaving Government to Lobby:

- Those who have signed the Pledge have agreed not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
- **“Lobbying a Covered Executive Branch Official”** means:
 - Contacting a Covered Executive Branch Official on behalf of a client (as a registered lobbyist) regarding:
 - the formulation, modification, or adoption of Federal legislation, rules, regulations, Executive orders or any other federal program policy or position;
 - the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or
 - the nomination or confirmation of a person for a position subject to confirmation by the Senate.
- **“Covered Executive Branch Official”** means:
 - the President;
 - the Vice President;
 - Individuals serving in the Executive Office of the President;
 - Any officer or employee serving in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;
 - Military Members grade 0-7 and above; and
 - Individuals serving in confidential, policy-determining, policy-making, or policy-advocating positions.

VI. Additional Considerations For Military Members

Military Retirees Working for DOD

- To avoid the appearance of favoritism or preferential treatment, retired military members may not be selected to fill a DOD civil service positions (including non-appropriated fund instrumentalities) within 180 days following retirement unless one of three exceptions exists:
 - the appointment is authorized by the head of a DOD Component, or designee;
 - the minimum rate of basic pay for the position has been increased under 5 USC §5305; or
 - a state of national emergency exists.
- **This restriction is currently waived.**
- Please note that it is fairly common for one of the exceptions above to apply -- thus the 180-day waiting period is seldom applied. For further information, see 5 USC §3326, JER 9-600, and DODI 1402.1.

Military Retirees Working for a Foreign Government

- Unless you receive prior authorization from your Service Secretary and the Secretary of State, you may forfeit your military pay during the time you perform services for a foreign government
- Under the Emoluments Clause of the U.S. Constitution retired military officers, enlisted personnel, and Reservists may not accept a payment from a foreign government without first obtaining the consent of Congress. Congress has determined that this consent should be obtained by asking for advance permission from the Secretary of State and the Secretary of the Military Department concerned before accepting the payment. For purposes of the Emoluments Clause, a corporation that is controlled by a foreign government is generally considered to be the same as the foreign government itself.
- The requirements of the Emoluments Clause apply not only to payments that are received directly by an individual from the foreign government, but also to payments made to an employee via an equitable distribution of partner or limited liability company profits that come from foreign government payments. This is true even if the retired military member who is receiving a share of the profits did not work directly for the foreign government or on the foreign government matter. In these instances, before the retired military member accepts such a payment, he or she must seek consent from his Service and from the Secretary of State. The penalty for violating the Emoluments Clause is suspension of a portion of (or in some instances all) retired military pay during the period of the violation.

AF Retirees considering employment by a foreign government should consult AFI 36-2913, *Request for Approval of Foreign Government Employment* (19 Nov 03). The responsible office is: HQ AFPC/DPFFF, 550 C Street West, Randolph AFB, Texas, 78150-4739. Telephone is COM 210-565-2461 or DSN 665-2461. Point of Contact is Ms. Gail Weber.

VII. Additional Rules for Contracting/Procurement Officials

- Military and civilian employees who work with contracts and procurement, or make key decisions in this area, must also be aware of special pre- and post-separation restrictions arising from **The Procurement Integrity Act** (41 U.S.C. §§2101-2107).

- The Act is implemented within DOD through the Federal Acquisition Regulation (FAR), Part 3.104.
- The Act has four basic provisions:
 - (1) a ban on disclosing procurement information;
 - (2) a ban on obtaining procurement information;
 - (3) a requirement for contracting officials to report employment contacts by/with a bidder or offeror in the procurement; and
 - (4) a 1-year ban for certain personnel on accepting compensation from certain contractors.
- (1) Disclosing Procurement Information
 - The Act prohibits the disclosure of “*contractor bid or proposal information*” and “*source selection information*.”
 - These terms are defined in the Act.
 - The ban applies to:
 - current Federal employees;
 - former Federal employees;
 - individuals (such as contractor employees) who are currently advising the government regarding the procurement; and
 - individuals who have advised the government regarding the procurement, but are no longer doing so.
 - The ban applies until the contract is awarded.
- (2) Obtaining Procurement Information
 - Individuals are prohibited from knowingly obtaining:
 - “*contractor bid or proposal information*” or
 - “*source selection information*” before the award of the contract to which such information relates, other than as provided for by law.
 - The ban applies to everyone (including Federal employees and contractor personnel).
- (3) Employment Contact Reporting Rule
 - This rule applies only to contracts in excess of the simplified acquisition threshold, which is generally \$100,000.
 - If an employee who is participating personally and substantially in a procurement makes contacts with, or is contacted by, a bidder or offeror in that procurement regarding possible employment, the employee must:
 - Promptly report the contact in writing to the employee’s supervisor and to the designated agency ethics official (or designee), and
 - Either:
 - ❖ (a) Reject the possibility of employment, or
 - ❖ (b) Disqualify himself or herself from further personal and substantial participation in the procurement until the agency has authorized the employee to resume participation in the procurement on the grounds that:
 - (1) the company that the employment contact was with is no longer a bidder or offeror in the procurement, or
 - (2) all discussions between the employee and the company regarding possible employment have terminated without an agreement or arrangement for employment.
- (4) The 1-year Ban on Accepting Compensation from the Contractor
 - The 1-year ban will apply if any of the following is true:
 - You serve as the Procuring Contracting Officer (PCO) on a contract over \$10 million at the time the contractor is selected or the contract is awarded.
 - You serve as the Source Selection Authority (SSA) on a contract over \$10 million at the time the contractor is selected or the contract is awarded.

- You serve as a member of the Source Selection Evaluation Board on a contract over \$10 million at the time the contractor is selected or the contract is awarded.
 - You serve as the chief of a financial or technical evaluation team on a contract over \$10 million at the time the contractor is selected or the contract is awarded.
 - You serve as the Program Manager on a contract over \$10 million.
 - You serve as the Deputy Program Manager on a contract over \$10 million.
 - You serve as the Administrative Contracting Officer on a contract over \$10 million.
- The 1-year compensation ban also applies to anyone who personally makes any of the following types of decisions:
 - Decision to award a contract or a subcontract over \$10 million.
 - Decision to award a modification of contract or subcontract over \$10 million.
 - Decision to award a task order or delivery order over \$10 million.
 - Decision to establish overhead or other rates applicable to a contract or contracts that are valued over \$10 million.
 - Decision to approve issuance of a contract payment or payments over \$10 million.
 - Decision to pay or settle a contract claim over \$10 million.
- The 1-year employment ban applies to officers, enlisted personnel, civilian employees, and special government employees.
 - It applies regardless of whether one retires, resigns or separates from the government.
 - The ban can apply in connection with both competitively awarded contracts and non-competitively awarded (i.e. sole source) contracts.
 - The 1-year ban applies to accepting compensation as an employee, officer, director or consultant of the contractor.
- The ban does not apply to accepting compensation from any division or affiliate of a contractor that does not produce "the same or similar products or services" as the entity of the contractor that is responsible for the contract you were involved in (such as a commercial division of the contractor).
 - The term "*affiliate*" means an associated business concern or individual if, directly or indirectly, either (a) one controls or can control the other, or (b) a third party controls or can control both.
 - "*Compensation*" means wages, salaries, honoraria, commissions, professional fees, and any other form of compensation, provided directly or indirectly, for services rendered.
 - ❖ Compensation is indirectly provided if it is paid to an entity other than the individual, specifically in exchange for services provided by the individual.
- (5) Requirement to Request Written Ethics Opinion
 - Individuals must submit a written request to their ethics counselor for post-government employment advice if they expect to receive compensation from any DOD contractor within the two-year period from the date they leave government service if they are a senior employee who participated personally and substantially in an acquisition valued in excess of \$10 million, OR anyone who currently serves, or served when they left government service in one of the following positions: program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in excess of \$10,000,000.

VIII. Ethics Reviews ("30-day" Letters)

- Current and former employees who have been offered a definite position with a private employer may request a written legal opinion on whether the Procurement Integrity Act compensation ban applies to them.

- The ethics official ordinarily issues this legal review within 30 days of the request (hence, the name “30-day Letter.”)
- Employees are not required to have a 30-day letter in hand before they begin to talk to a company about employment, nor does the Government require that the employee obtain a 30-day letter at all, if the employee does not fall under a category described in paragraph (5) of the previous section.
- However, it is not unusual for a private employer to request that a former Federal official submit a letter during the interview process. For these occasions, we provide a “Certification of No Conflict” (Attachment 2), for submission to potential employers with a copy of your disqualification memorandum.
- The Air Force Ethics Office’s policy is that a 30-day letter **will not be issued** unless the employee or former employee has a definite description of duties to be performed and the job is contingent upon an ethics review.
- A request for a 30-day letter must be submitted on DD 2945 (see Attachment 3), signed and dated.
- The writing must explain the duties the employee recently held with the Federal government, as well as the duties the employee anticipates undertaking for the new employer.

IX. Conclusion

- Whether you are separating or retiring, your awareness of the pre-and post-Government employment restrictions should help you to avoid any misunderstanding of the law.
- If you have any questions, please contact the appropriate legal office (listed on page 2) for further guidance from an ethics counselor. Good luck with your future endeavors!

[____Date____]

MEMORANDUM FOR *[insert supervisor name and organization]*

FROM:

SUBJECT: Disqualification Statement (Seeking Post-Government Employment)

In accordance with 18 U.S.C. § 208 (a criminal statute), 5 C.F.R. §§ 2635.604 and 606, and § 17 of the Stop Trading on Congressional Knowledge Act of 2012 (“STOCK Act”), I am notifying you that I am seeking post-government employment with the following non-Federal entities:

Entity(ies)

[insert name(s) of entity(ies)]

I am disqualifying myself from participating personally and substantially in any particular matter that would have a direct and predictable effect on the financial interests of the listed entities. I will refer any matter brought to me concerning these persons or companies to *[insert name(s) of person(s) who will review these matters]* for appropriate action.

This disqualification remains in effect until further notice. In the event circumstances change, such as if I reject the possibility of employment with one of the listed entities, or if I receive no response two months after submitting my resume, I will consult an ethics counselor, update this memorandum, and notify all relevant parties.

I file:

- the Public Financial Disclosure form (OGE 278)
- the Confidential Financial Disclosure form (OGE 450)
- no financial disclosure form.

Signature

Date

Print Name

cc (278 filers only): Air Force Ethics Office
usaf.pentagon.saf-gc.mbx.SAF-GCA-Ethics-Workflow@mail.mil
(Room 4C934, Pentagon)

Attachment 1

FEDERAL GOVERNMENT EMPLOYEE
CERTIFICATE OF NO-CONFLICT

Your Name
Your Organization
Your Address
City, State ZIP

Company Name
Company Address
City, State ZIP

I certify that:

- 1) I have been involved in a pending federal agency procurement in which *Company Name* is or was an offeror or bidder
 YES NO
 - If YES:
 - i. Identify the matter by name and/or contract number:
 - ii. Provide dates of such involvement:
- 2) I have been involved in a contract or other particular matter which may have a direct and predictable effect on the financial interests of *Company Name*.
 YES NO
 - If YES:
 - i. Identify the matter by name and/or contract number(s):
 - ii. Provide dates of such involvement
- 3) If I have answered **YES** to either of the above questions, the highest dollar value of any matter I have been involved in within the past twelve months is:
 OVER \$10 Million \$10 Million or UNDER N/A

I have provided notification and disqualified myself from any future participation in any federal agency procurement in which *Company Name* is or may be an offeror or bidder, and from future participation in any contract or other particular matter which may have a direct and predictable effect on the financial interests of *Company Name*.

This certification includes all subsidiaries and business units of *Company Name*.

A copy of my written disqualification letter is attached to this certification.

Signature: _____

Attachment 2

DD Form 2945

Post-Government Employment Advice Opinion Request

If you expect to receive compensation from a defense contractor and you either: 1) are on the Executive Schedule, a member of the Senior Executive Service, or a general or flag officer, AND participated personally and substantially in an acquisition valued in excess of \$10,000,000; OR 2) currently serve or served in one of the positions listed in paragraph (4) on page 12 of this handout, you MUST submit a written request (using DD Form 2945) to your ethics counselor for a written advisory opinion. A PDF fillable copy of DD Form 2945 is available at the following website:

<http://www.dtic.mil/whs/directives/infomgt/forms/efoms/dd2945.pdf>

Current and former Federal employees who have been offered new employment may request a written legal opinion on whether the Procurement Integrity Act applies to them. An ethics counselor ordinarily issues this legal opinion within 30 days of receiving the request (hence the nickname, “30-day letter”).

Employees are not required to have a 30-day letter before they talk to a potential employer about private employment. However, it is not unusual for the private employer to request that a former Federal official obtain a letter because it documents that an ethics review was done.

The employee seeking the advice must have a definite job description and job offer that is contingent upon an ethics review. If an employer asks for a 30-day letter prior to offering a definite position and will not accept the self certification found at Attachment 2 of this document, give them a copy of this information sheet. If they have further questions, they should call the relevant legal office, below. The request for a letter is submitted on the DD Form 2945, which must be signed and dated. The worksheet must include a clear description of the duties the employee recently held with the Federal government, as well as a description of the duties required by the new employer.

Please keep in mind that Air Force ethics counselors represent the United States Air Force—they do not represent the employee. Also, counseling on standards of conduct issues is not “legal assistance.” This means that the normal confidentiality afforded a person who consults with an attorney does *not* apply to discussions on pre- and post-employment restrictions. Finally, any advice given in this area is personal to the employee asking the questions; it is not provided to third parties or to potential employers directly.

If you would like one-on-one counseling, it is important to contact the appropriate ethics counselor.

- For Air Force personnel assigned to the Air Staff or Secretariat, contact:
 - SAF/GCA
Room 4C934, The Pentagon, Washington, DC 20330-1740
(703) 693-0417
- For Air Force personnel assigned to AFDW, contact:
 - AFDW/JA
1500 W. Perimeter Road, Suite 5770
Joint Base Andrews, MD 20762
(240) 612-6091 / DSN 612-6091
- For Air Force personnel assigned to the 11th Wing, contact:
 - 11WG/JA
1602 Brookley Ave. Rm 161
Joint Base Andrews, MD 20762
(301) 981-2042 / DSN 858-2042

For Air Force personnel assigned to other USAF, DOD or Federal organizations: contact the servicing ethics counselor or staff judge advocate/legal counsel for the organization to which you are assigned.