

# **Job -Hunting and Post-Government Employment Summary**

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For more information, contact the 48 FW Legal Office at DSN 314-226-3553

## **FEDERAL EMPLOYEES SEEKING EMPLOYMENT**

### **1. The Financial Interest Rule**

- A federal employee shall not participate personally and substantially in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment
  - “Participate personally and substantially” = to approve, disapprove, make recommendations, give advice regarding, investigate, etc. any matters in which the prospective employer has a financial interest.
- **Solution:**
  - A federal employee can disqualify themselves from such duties if their federal employment would otherwise require such involvement.
- **Search Firms**
  - An employment search firm may contact, on an employee’s behalf, a company where the employee *is* participating in a government matter that affects the company’s financial interests, as long as the employment search firm does not inform the employee that it has contacted the company
    - Once the employee is informed, they must disqualify themselves
- **Retirement Date**
  - Military members are NOT required to have an approved retirement or separation date, or to have applied for retirement or separation, before beginning to seek employment
- *See 18 USC 208; 5 CFR 2635.604*

### **2. The Negotiating Employment Rule**

- If you have to file an OGE Form 278 you must report any employment negotiations or agreements within three (3) business days
- *See the STOCK Act*

### **3. The Employment Contact Reporting Rule**

- If a federal employee who is involved in a government procurement contract is contacted regarding possible employment by a bidder or offeror in that procurement contract, they must 1) report the contact, **and** 2) either reject the possibility of employment or disqualify themselves from further involvement in the procurement contract.
  - “Involved” = “to participate personally and substantially” = to approve, disapprove, make recommendations, give advice regarding, investigate, etc. any matters in which the prospective employer has a financial interest.
- *See 41 USC 423(c)*

### **4. Reimbursement of Interview Expenses**

- A federal employee may accept reimbursement from a prospective employer for meals, lodging, transportation, etc. in connection with employment discussions, as long as:

- 1) the employee does not have duties that can affect the interests of the prospective employer  
AND
- 2) the benefits the employee receives are not more extravagant than those received by others competing for the position
- *See 5 CFR 2635.204(e)(3)*

**5. Ban on Communicating Inside Information To A Prospective Employer Rule**

- Executive Branch employees may NOT disclose non-public information to companies or organizations with which they are seeking employment.
- *See 18 USC 208; 5 CFR 2635.604*

**6. Ban on Participation in Matters of Interest to a Contracted Employer Rule**

- Executive Branch employees who have an employment contract with a company may not participate in any government matter in which that company has a financial interest.
- *See 18 USC 208(a); 5 CFR 2635.606(a)*

**MILITARY MEMBERS ON TERMINAL LEAVE**

**7. Approval of Employment During Terminal Leave**

- Employment during terminal leave is considered off-duty employment
- DoD employees must obtain prior written approval if:
  - 1) they will work for a “prohibited source” (e.g., a DoD contractor),  
AND
  - 2) they file either the Confidential Financial Disclosure Report (OGE Form 450) or the Public Financial Disclosure Report (SF 278).
- Air Force personnel should use the AF Form 3902 to obtain approval for off-duty employment. A
  - All Air Force Materiel Command (AFMC) personnel are required to obtain prior approval of non-federal off-duty employment by completing the AF Form 3902.
- *See 18 USC 208; 5 CFR 2635.604*

**8. Ban on Representing a Non-Federal Entity before a Federal Agency**

- Commissioned military officers and Federal civilian employees are prohibited from representing non-Federal organizations before any Federal agency
  - Military officers on terminal leave may begin work with a contractor, but only "behind the scenes" at a contractor office or otherwise away from the Government workplace
- *See 18 USC 203 & 205; JER 5-401 & 5-403*

**9. Ban On Accepting State Or Local Civil Office While On Terminal Leave**

- Commissioned military officers may not accept a civil office with a State or local government while on active duty or while on terminal leave
- *See 10 USC 973(b)(3); JER 5-407 & 9-801b; AFI 51-902*

**10. Ban on Acting As A Registered Agent of a Foreign Government, Person, or Corp**

- Military officers and enlisted personnel on active duty or on terminal leave are prohibited from being, or acting as, a registered agent of a foreign government, person, or corporation
- *See 18 USC 219; 5 CFR 2635.902q*

## **POST-GOVERNMENT EMPLOYMENT RULES**

### **11. One-Year Compensation Ban**

- Current or former military officers, enlisted personnel, civilian federal employees, and special government employees may not accept compensation from a government contractor involved in a government contract worth over \$10 million for one year (the start date of the year prohibition depends on the position held and the level of involvement).
- *See FAR 3.104-3*

### **12. Senior Officials, Source Selection, Program Managers, and Contracting Officers**

- General Officers, Source Selection participants, Program managers and contracting officers must seek a written opinion from an ethics counsellor if they expect to receive compensation from a DoD contractor within two years of leaving government service
- *See P.L. 110-181*

### **13. The Lifetime Representation Ban**

- Officers and executive branch civilian employees may not “switch sides” by representing a company or other party in a particular matter on which they worked personally and substantially while in the government.
  - You may not at any time in your life communicate with or appear before a Federal employee in connection with the same contract or other particular matter that you participated in while you were with the Federal government
- *See 18 USC 207(a)(1)*

### **14. 2-Year Representation Ban**

- Officers or executive branch employees who have a government contract pending under his official responsibility during the one-year period before retirement or termination may not, for two years after retirement or termination, communicate with intent to influence any US officer or employee in connection with such contract on behalf of any person other than the US.
- *See 18 USC 207(a)(2)*

### **15. 1-year ban on aiding "the other side" in trade or treaty negotiations**

- For one year after leaving, commissioned officers and Federal employees are prohibited from knowingly representing, aiding, or advising any other person (except the United States) concerning any ongoing trade or treaty negotiations in which, during their last year of government service, they participated personally and substantially
- *See 18 USC 207(c)*

### **16. The 1-year no-contact rule**

- Flag and general officers and civilian personnel whose basic rate of pay is at or above \$172,395 in CY 2021 may NOT, for one year after leaving their agency, make any communication to, or appearance before, any employee of their former agency (or the President or Vice President), with the intent to influence that person, on behalf of any third person, in connection with any matter on which the third person seeks official action by their former agency
- *See 18 USC 207(c)*

### **17. The Ban on Lobbying Senior Officials**

- Retiring general officers and SES members cannot for one or two years after their retirement date lobby current general officers and SES members on any matter related to DoD.
- *See Section 1045 of the 2018 NDAA*

### **18. The 1-year Ban On Assisting Foreign Entities**

- Flag and general officers and civilian personnel whose basic rate of pay is at or above \$172,395 in CY 2021 may NOT, for one year after leaving Federal service:
  - Represent a foreign government or foreign political party before any US officer or employee, with the intent to influence a decision of such officer or employee in their official duties
  - Aid or advise a foreign government or foreign political party with the intent to influence a decision by any officer or employee of any department or agency of the United States, in carrying out his or her official duties.
- *See 18 USC 207(f)(1)*

### **19. The 180-day Waiting Period On Retired Members Taking A Civilian Position in DoD**

- Retired military personnel may NOT be appointed to civil service positions in any DoD component for 6 months after retirement
- *See 5 U.S.C. 3326*

### **20. The Employment of Retired Military Members By A Foreign Government**

- NO retired military members (officer or enlisted; Regular or Reserve) may be employed by a foreign government unless Congress first gives consent
- *See 37 USC 908*
  - Air Force members must fax an application form to request consent
  - *See AFI 36-2913*

### **21. Other Foreign Activities By Retired Military Members**

- Serving in the armed forces of a foreign government will result in loss of retired pay (except for some specified newly democratic nations)
  - *See 58 Comp. Gen. 566 (1979)*
- Retired military members who voluntarily renounce their U.S. citizenship will lose their retired pay
  - *See 58 Comp. Gen. 566 (1979); Comp. Gen. Dec. B-212481 (2 Feb 84)*
- Former government employees (including military), who would like to act as a representative of a foreign government or foreign entity may be required to register as a foreign agent.
  - *See 22 U.S.C. § 611; 28 CFR Part 5)*
  - Information is also available at: <http://www.usdoj.gov/criminal/fara>

## MISCELLANEOUS RULES

### **22. The Requirement For Departing Senior Employees To File an SF 278**

- General and flag officers, SES employees MUST complete a Public Financial Disclosure Report (SF 278) within 30 days after their retirement date
- *See JER 7-203d*

### **23. Retired Military Members Using Their Military Title**

- Retired military members and members of Reserve Components, not on active duty, may use military titles in connection with commercial enterprises, provided they clearly indicate their retired or inactive Reserve status.
  - Any use of military titles is prohibited if it in any way casts discredit on DoD or gives the appearance of sponsorship, sanction, endorsement, or approval by DoD.
- *See DoD 5500.7-R), paragraph 2-304*

### **24. Retired Military Members Wearing The Uniform**

- Retired Air Force members may wear the uniform “at occasions of military ceremonies.”
- *See AFI 36-2903 Table 6.1, Rule 16*

### **25. Dealing with Former Government Employees Who Are Working For Contractors**

- If retired senior officials visit an installation *in their personal capacities*, they may be afforded those courtesies normally shown to visiting retired senior officials.
- If retired senior officials visit an installation *on business*, they must be treated in the same manner as everyone else who is either seeking business or doing business with the installation.
- *See 18 USC 208; 5 CFR 2635.604*

### **26. Going to work for a support contractor**

- A departing military member or federal employee may not participate in any government organization action that obtains services from a support contractor if the departing employee would like to go to work for the support contractor and provide those services.
  - I.e. a departing employee may not participate personally and substantially in the effort by the government organization to obtain those services from the support contractor
- *See 18 USC 208*

### **27. Asking a Support Contractor To Hire a Departing Employee**

- Advisory and assistance services shall not be contracted for on a preferential basis to former Government employees
  - *See FAR 37.203(c)*
- A federal employee shall not use his public office for his own private gain, to endorse a product/service, or for the private gain of friends, relatives, or affiliates
  - *See 5 CFR 2635.702*
- It is not permissible for a supervisor government official to communicate to the support contractor a desire that it hire a particular departing employee
  - *See AFMC's Guide for the Government-Contractor Relationship, May 2005, page 8*