

CIVILIAN EMPLOYMENT



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SEEKING EMPLOYMENT WHILE STILL IN THE USAF (including on terminal leave)

A. The Financial Interest Rule: 18 USC 208(a), 5 CFR 2635.604, JER 8-200 (DODD 5500.07-R).

If your job in the Air Force includes working on a government contract or other matter in an official capacity with a Government contractor, you must take care when looking for other employment. Working on the contract in an official capacity includes making decisions, rendering advice, approving, disapproving, or making recommendations regarding the outcome of the contract.

If you "personally and substantially" participated, you may not seek employment or have any other financial interest with the contractor/business while you are working on behalf of the Government. Financial interest in the contractor includes any interest your spouse, child, or any other immediate family member may have. If you or your family do have a financial interest or are planning on seeking employment with the contractor, you *must* request a disqualification from your duties from your supervisor.

B. The Prospective Financial Interest Rule: 18 USC 208(a), 5 CFR 2635.606(a).

If you are currently working for or have an arrangement to work for an employer after federal employment, you are prohibited from *any* participation in any matter the employer has a financial interest in.

C. Working on Terminal Leave.

If you will be working while on terminal leave, it must be approved before starting employment. You can obtain written approval by filling out AF Form 3902, *Off Duty Employment Approval*. In every instance of employment, you MAY NOT represent the employer before ANY federal agency:

- Arguing for/speaking to federal employee on an action;
- Signing reports, letters, bids, applications, proposals for submission to an federal agency; and/or
- Signing agreements with a federal agency.

You may, however, convey purely factual information, answer factual questions, and deliver materials and documents. You may not work for a Government contractor in a federal building while on terminal leave.

POST GOVERNMENT EMPLOYMENT RULES

A. 1 Year Compensation Ban: 41 USC § 2104, FAR 3.104-7 [*Employee may request a 30 day letter from the Designated Ethics Officer, 21 SW/JA, to show future employer he or she has no conflict of interest*].

A former employee or official of the Air Force cannot receive any compensation from a contractor that they are now employed with, consult, or are an officer or director of the contractor for one year after leaving Air Force employment if they held one of the following positions on a contract over \$10 million:

- Procurement Contract Officer;
- Source Selection Authority;
- A member of the Source Selection Evaluation Board or Team;
- Chief of an evaluation team (financial or technical);
- Manager or Deputy Program Manager; or
- Administrative Contracting Officer.

The ban also applies to those personally involved in all stages of the contract or subcontract if it is over \$10 million. This includes making decisions to award or modify a contract or subcontract. The ban also

includes anyone who gave a task order or delivery order in excess of \$10 million. The ban is applicable to anyone who assisted in establishing overhead rates, issued contract payments, or paid or settled a claim with a contractor over \$10 million.

B. Lifetime Representative Ban: 18 USC 207(a).

A permanent ban on representation exists for officers and employees of the Air Force (not to enlisted members) after they terminate their employment. Anyone in that category will be punished who knowingly makes a communication or appearance on behalf of any other person on a matter where:

- The United States is a party or has a direct and substantial interest;
- The person participated personally and substantially in the matter during their employment; and
- The matter involved a specific party or specific parties at the time of participation.

The ban only applies if the communication or appearance is done with the purpose of influencing the proceeding or negotiations. Punishments include up to five years in prison and up to a \$50,000 fine.

C. 2 Year Representation Ban: 18 USC 207(a)(2).

A two-year ban is in place on the same category of people as above. However, the two-year ban applies only to matters in which the employee or officer knew or reasonably should have known was pending under their supervision within one year of their termination. Violation of the two-year ban carries the same punishments as above.

SUMMARY OF TERMS

Participating includes:

- Make a decision or recommendation regarding the matter;
- Give advice, approval/disapproval regarding the matter;
- Assign work or tasking regarding the matter.

Disqualification:

To be removed from your duties on the matter, in writing (file with 21 SW/JA). You cannot simultaneously participate personally and substantially in a matter of financial interest to the employer and negotiate for employment with that employer.

Official Responsibility:

Direct administrative or operating authority, personally or through subordinates to approve/disapprove and direct government action.

Personally: Himself or herself or his or her direction to a subordinate.

Substantially: The involvement was significant to the matter.

Specific Parties: Those involved in a matter, including those simply expressing an interest (oral or written), any company in a solicitation, Commerce Business Daily response, or clarification letter author read very broadly.

The information provided in this document is meant for the sole use of Active Duty service members, retirees, and their families. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the facts and circumstances in each case. Laws can vary across states, services, and civilian jurisdictions. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.