

# POST GOVERNMENT EMPLOYMENT



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**NOTE:** You should also read the Legal Assistance Handout – **CIVILIAN EMPLOYMENT**

## RESTRICTIONS ON SEEKING EMPLOYMENT

1. If you have duties involving a company: If you are seeking employment from a company, you may not participate personally and substantially (through decision, approval, disapproval, recommendation, advice, investigation, or otherwise) in any government matter (e.g., contract, source selection, claim, sale of asset) in which the company, has a financial interest. [18 USC 208(a)]. If you have duties involving a company, and you want to seek employment with the company, you must be disqualified from such duties **before** you begin to seek employment with the company (i.e. before you send the resume or have the first employment discussion). The disqualification must be in writing. Your agency is not required to approve your request for disqualification from duties. A disqualification letter can disqualify you from duties involving one company, or many companies. Also, you should notify coworkers that you are prohibited from working on matters involving the company so they will not ask you to do so.
2. If you do not have duties involving a company: If you want to seek employment with a company and you do **not** have any duties involving the company, you are not required to be disqualified from duties involving that company. However, once you begin to seek employment with the company, you will be prohibited from participating personally and substantially in any government matter in which the company has a financial interest.
3. Termination of disqualification: If your employment discussion with a company do not lead to a job, your disqualification from duties involving the company can be terminated. However, your supervisor has the right to determine that, for appearance purposes, you should **not** immediately resume duties involving a company with which you were recently having employment discussions. If you were disqualified from duties involving a company, but never actually sought employment with the company, you may end the disqualification and resume duties involving the company at any time. However, if you were disqualified from duties with the company, and you **did** seek employment with the company (by having discussions or giving a resume), you may not end the disqualification and resume duties involving the company unless: 1) either you or the company has rejected the possibility of employment and all employment discussions have ended, or 2) two months have passed since you sent an unsolicited

resume or employment proposal to the company, and you have received no indication of interest from the company.

4. Employment search firms: You may use an employment search (i.e., headhunter) firm when seeking post-government employment. An employment search firm may contact on your behalf companies that have no relation to your government duties. An employment search firm may also contact on your behalf a company, where you are participating in a government matter that affects the company's financial interests, as long as the employment search firm does not inform you that it has contacted the company (and assuming that you have not asked the employment search firm to contact the company). Once the employment search firm informs you that it has contacted the company on your behalf, you are considered to be "seeking employment" with the company, and you may not participate personally and substantially in any government matter that affects the company's financial interests.
5. Duty to report certain employment contracts: The Procurement Integrity Act states that if you are participating personally and substantially in a procurement and you contact, or are contacted by, a bidder or offeror in that procurement regarding possible employment, you must do two things: (1) You must promptly report the contact in writing to your supervisor and to your designated agency ethics official (or designee); and (2) You must either reject the possibility of employment, or disqualify yourself from further personal and substantial participation in the procurement (until you have been authorized to resume participation in the procurement). [41 USC 423(c)].

## OTHER RULES RELATED TO SEEKING EMPLOYMENT

1. Permissive TDY (PITDY): CONUS-based Air Force members who will retire are authorized up to 20 days of PTDY for a "retirement relocation activity such as job or resident search." [AFI 36-3003, Military Leave Program].
2. Interviewing expenses: An employee may accept reimbursement from a prospective employer for meals, lodging, transportation, and other benefits in connection with bona fide employment discussions, as long as: 1) the employee does not have duties that can affect the interests of the prospective employer (if so, the employee must first become disqualified from performing duties involving the company), and 2) the benefits the employee receives the "customarily" provided by the prospective employer to the people being interviewed (i.e., the benefits you receive are

not more extravagant than those received by others competing for the position). [5 CFR 2635.204(e)(3)].

3. Information: Employees may not use “non-public information” to further their own private interests, or the private interests of any other person or company. [5 CFR 2635.703(a)].
4. After you accept the job offer: If an employee has an employment arrangement with a company, the employee may not participate personally and substantially in any government matter (e.g., contract, source selection, claim, sale of asset) in which the company has a financial interest. [18 USC 208(a)].
5. Employment during terminal leave: Employment by military members during terminal leave is considered off-duty employment. The general rule in DoD is that you must obtain prior approval of off-duty employment if 1) you are required to file a financial disclosure report, and 2) you will work for a “prohibited source” (e.g., a DoD contractor). [JER para. 2-206]. However, all personnel are required to obtain prior approval of off-duty employment. Off-duty employment is generally approved by one’s first-level supervisor who is a commissioned military officer or civilian GS-12 or above. However, for General Officers who are in command, off-duty employment is approved by their Ethics Counselor.
6. Employment representation ban: Military officers and civilian employees may not represent individuals, companies or organizations before any Federal agency. [18 USC 203 & 205]. The rule applies to officers on terminal leave, but not to enlisted personnel.
7. Foreign governments: Retired military are eligible for foreign government employment, but Active Duty, ANG and USAFR members of the Ready Reserves are ineligible for employment by foreign governments. See AFI 36-2913 for more information.

Source: <https://www.oge.gov/web/oge.nsf/Post-Government%20Employment>  
AFI 36-2913

*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.*