

POST-GOVERNMENT SERVICE EMPLOYMENT ACTIVITIES

OF

DEPARTMENT OF THE NAVY

PERSONNEL

Various laws restrict the employment activities of individuals who leave Government service. While most of these statutes apply equally to both civilian and military personnel, some apply to only military personnel and others apply only to personnel above certain pay grades. You are responsible for determining which post-Government service employment activities you may legally pursue. The Judge Advocate General has published the Reference Guide to Post-Government Service Employment Activities of Department of the Navy Personnel to assist you in your transition from government service, and it is available for review through your Human Resources Office. The chart below is designed as an overview of post-Government service employment restrictions. Additionally, you should consult with your local ethics counselor for an initial assessment of your post-Government service employment plans should you have questions about the propriety of such activities. For any case not covered by the pamphlet or in unusual situations, the Judge Advocate General (Code 13), 200 Stovall Street, Alexandria, VA 22332-2400; the Office of the General Counsel, Assistant General Counsel (Ethics), 490 Crystal Plaza #5, 2211 Jefferson Davis Highway, Arlington, VA 22202, or the Judge Advocate Division (JAR), Headquarters, U.S. Marine Corps, Washington, D.C. 20380-0001 will assist you in determining the propriety of any activities in which you propose to engage upon retirement or separation.

POST-GOVERNMENT SERVICE EMPLOYMENT RESTRICTIONS

| ACTIVITY CONTROLLED   | APPLIES IF:   | PERSONS COVERED:                    | SOURCE OF RESTRICTION  | PENALTY:   |
|---|---|-------------------------------------|--|--|
| <b>I. <u>BARS TO EMPLOYMENT</u></b>   |   |                                     |  |  |
| - May not accept compensation from Status based foreign government without permission SECNAV & SECSTATE   | Status based  | Current & retired military officers | U.S. Constitution Art. I, § 9 clause 8. 37 U.S.C. § 908      | Forfeiture of pay  |
| - May not accept employment with the federal government, of any duration, under any authority within 5 years after separation                                       | - <u>employee received a voluntary separation incentive on or after March 30, 1994</u>  | All former employees                | 5 C.F.R. 576.101 {Statutory authority 5 U.S.C. § 5597(g)(1)} | Repayment of entire amount of voluntary separation incentive payment, including all deductions for taxes, etc. to the agency that made the payment |
| - May not, for one year after certain types of procurement activity, accept compensation from the contractor if the contract awarded was in excess of \$10,000,000. | (1) Served, at time of selection, as procuring contracting officer, the source selection authority or member of the source selection evaluation board or chief of financial or technical evaluation team;<br>(2) Served as program manager, deputy program manager or administrative contracting officer on the awarded contract; or<br>(3) Personally made a decision to award the procurement action to that contractor, to establish overhead rates values in excess of \$10,000,000, to approve a contract payment to that contractor in excess of \$10,000,000, or program manager, to settlement or pay a claim in excess of \$10,000,000 to that contractor. | All officers and employees          | 41 U.S.C. § 423 (d)  | 5 years imprisonment. \$250K fine; \$50K civil fine.   |

**POST-GOVERNMENT SERVICE EMPLOYMENT RESTRICTIONS cont.**

| ACTIVITY CONTROLLED  | APPLIES IF:   | PERSONS COVERED:   | SOURCE OF RESTRICTION   | PENALTY:  |
|--|---|--|-------------------------|---|
| <b>II. SCOPE OF EMPLOYMENT</b>   |   |  |                         |   |
| <b>A. REPRESENTATIONAL ACTIVITIES</b>  |   |  |                         |   |
| - May never communicate with or appear before a Government official with the intent to influence the official on behalf of any other person  | <u>-matter is the same particular matter, involving some specific party, that the employee participated in personally &amp; substantially as a Government employee</u>                  | All former officers and employees except enlisted              | 18 U.S.C. § 207 (a) (1) | 1 yr imprisonment, \$100,000 fine<br>Willful violations:<br>5 yrs imprisonment;<br>\$250,000 fine<br>\$50,000 civil fine    |
| - May not for 2 yrs communicate with or appear before a Government official with the intent to influence the official on behalf of any other person  | <u>- matter is the same particular matter, involving some specific party, that was under the employee's official responsibility</u>   | All former officers and employees except enlisted              | 18 U.S.C. § 207 (a) (2) | 1 yr imprisonment, \$100,000 fine.<br>Willful violations:<br>5 yrs imprisonment;<br>\$250,000 fine<br>\$50,000 civil fine.  |
| - May not for 1 yr knowingly represent, aid or advise any person concerning an ongoing trade or treaty negotiation on the basis of inside information  | <u>-participated personally and substantially in an ongoing trade or treaty negotiation and had access to information exempt from FOIA disclosure within last year of Gov't service</u> | All former officers and employees except enlisted              | 18 U.S.C. § 207 (b)     | 1 yr imprisonment, \$100,000 fine.<br>Willful violations:<br>5 yrs imprisonment;<br>\$250,000 fine<br>\$50,000 civil fine.  |
| - May not for 1 yr communicate with or appear before an official of the department in which person served within last year with the intent to influence the official on behalf of any other person | status based  | Former officers 0-7 and above; certain senior civilians        | 18 U.S.C. § 207 (c)     | 1 yr imprisonment, \$100,000 fine.<br>Willful violations:<br>5 yrs imprisonment;<br>\$250,000 fine.<br>\$50,000 civil fine. |
| - May not for 1 yr represent, aid or advise a foreign Gov't or political party with the intent to influence U.S. Gov't officials   | status based  | Former officers 0-7 and above; certain former senior civilians | 18 U.S.C. § 207 (f)     | 1 yr imprisonment, \$100,000 fine.<br>Willful violations:<br>5 yrs imprisonment;<br>\$250,000 fine<br>\$50,000 civil fine   |

**POST-GOVERNMENT SERVICE EMPLOYMENT RESTRICTIONS cont.**

| ACTIVITY CONTROLLED   | APPLIES IF:   | PERSONS COVERED:  | SOURCE OF RESTRICTION  | PENALTY:  |
|---|---|---|--|---|
| <b>B. PROCUREMENT INTEGRITY</b>   |   |   |  |   |
| - May not for 2 yrs after date of last participation participate in any manner in negotiations involving a procurement contract on behalf of a competing contractor   | - acted as a <u>procurement official who participated personally and substantially</u> in the procurement of which contract is a part | Former procurement officials                                  | 41 U.S.C. § 423 (f) (1) (A) (applies to activities occurring after 1 Jun 91) | \$100,000 fine  |
| - May not for 2 yrs after date of last participation participate personally and substantially in the performance of a contract on behalf of a competing contractor  | - acted as a <u>procurement official who participated personally and substantially</u> in the procurement of which contract is a part | Former procurement officials                                  | 41 U.S.C. § 423 (f) (1) (B) (applies to activities occurring after 1 Jun 91) | \$100,000 fine  |
| <b>III. RESTRICTIONS ON SEARCHING FOR A JOB</b>   |   |   |  |   |
| - Must disqualify self from participating in matters that may affect financial interest of person or organization with whom employee is discussing employment or has arrangement for future employment  | -matter <u>affecting financial interest of potential employer is a matter under official responsibility of</u> employee               | All officers and employees; applies to enlisted by regulation | 18 U.S.C. § 208  | 1 yr imprisonment; \$100,000 fine<br>Willful violation: 5 yrs imprisonment. \$250,000 fine, \$50,000 civil fine |
| - Must report potential employment contract by bidder or offeror on contract in excess of simplified acquisition threshold and<br>(1) disqualify self from further involvement in contract, or<br>(2) terminate employment discussions with contractor. | - Participating personally and substantially in procurement.  | All officers and employees                                    | 41 U.S.C. § 423 (c)  | 5 years imprisonment; \$250K fine; \$50K civil penalty  |

**NOTES:**

1. Federal agency procurement. Federal agency acquisition (by using competitive procedures and awarding a contract) of goods or services from non-Federal source using appropriated funds.