

# Civilian Employment



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*The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and other personnel eligible for legal assistance from the Space Base Delta 1 Legal Office. 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 particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws change from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.*

## **CIVILIAN EMPLOYMENT**

### **Seeking Employment While Still in the USAF or USSF (including on terminal leave)**

**The Financial Interest Rule:** 18 U.S.C. § 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 be cautious when looking for other employment. Working on a 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 in a particular matter involving a contractor or business, you may not seek employment or have any other financial interest with that contractor or business while you are working on behalf of the government. A financial interest in the contractor includes any interest your spouse, child, or 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.

- To participate *personally*: Directly, either individually or with others; or through direct and active supervision of the participation of any person you supervise
- To participate *substantially*: Your involvement was significant to the matter

**The Prospective Financial Interest Rule:** 18 U.S.C. § 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 personally and substantially participating in any matter in which the employer has a financial interest.

### **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 cannot represent the employer before **any** federal agency to include:

- Arguing for or speaking to federal employees 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**

**1-Year Compensation Ban:** 41 U.S.C. § 2104, FAR 3.104-7 [*Employee may request a 30-day letter*

*from the Designated Ethics Officer, P-S GAR/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 as an employee, officer, director, or consultant within one year after leaving Air Force employment if he/she:

- held one of the following positions on a contract worth over \$10 million with that contractor: 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

**or**

- did one of the following on a contract involving over \$10 million with that contractor: awarded or modified the contract/subcontract or a task order or delivery order; established overhead rates; issued contract payments; or paid/settled a claim.

Lifetime Representation Ban: 18 U.S.C. § 207(a)

After terminating their employment, officers and employees of the Air Force (does not include enlisted members) are permanently banned from knowingly making a communication or appearance on behalf of any other person on a matter in which:

- 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 their 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.

2-Year Representation Ban: 18 U.S.C. § 207(a)(2)

A two-year ban is in place on the same category of people as listed 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.