

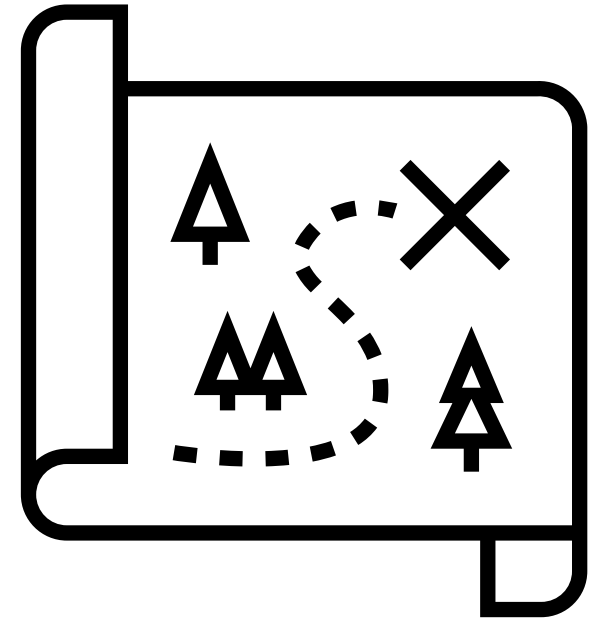


Post-Government Employment Ethics Rules for DoD Personnel

2025 Ethics Fundamentals Training Course

Road Map

- Purpose of Restrictions
- Obligations of Ethics Officials
- Seeking Employment
- Post-Government Non-Federal Employment
- Post-Government Foreign Employment



Purpose

- Post-Government Employment (PGE) rules derive from the criminal conflict of interest statutes
 - Supplemented by legislation and regulations addressing areas where Congress has determined there is greater risk of actual or perceived conflicts of interest.
- Purpose: Maintain public trust by preventing acts by former personnel which involve, or may appear to involve, unfair use of prior Government employment through connections, inside information, and generally “cashing in.” See, 5 C.F.R. § 2641.101
- Additional rules apply to DoD personnel.

Our ethics attorneys provide extensive guidance, including assisting individuals in comprehending the often intricate and overlapping patch work of post-Government employment laws that apply to DOD employees in particular.

HON Caroline Krass, former DoD General Counsel,
Statement to SASC Subcommittee on Personnel, 4/26/23

Obligations of DoD Ethics Officials

- Ensure PGE is part of annual ethics training (JER § 9-304)
- Ensure that Public Financial Disclosure Report Filers
 - Are notified in writing by agency HR of 18 U.S.C. § 207(c) applicability upon appointment to a senior position (5 C.F.R. part 730);
 - Certify compliance annually (JER § 7-300);
 - File a Termination Public Financial Disclosure Report NET 14 days before, and NLT 30 days after leaving Federal service (5 C.F.R. § 2634.201(e)).
- Be competent to provide tailored *opinions* based upon complete information obtained in a DD 2945 (or “AGEAR” system). See, JER § 7-100 and § 7-104.
 - Terminal leave and Emoluments Clause restrictions for military members must be addressed. See, JER § 7-101.
 - Ensure delegated authority to issue written opinion. See, JER § 7-103.
 - Templates are only a guide!
 - Written opinions may be disclosed. See, JER § 7-105.
- Appreciate the context
 - Ethics opinions can be a “safe harbor.” See, e.g., 5 C.F.R. § 2635.107 and FAR 3.104-6(d).
 - Frequent Congressional and media interest.
 - Industry reliance / certifications. Bad advice can affect procurements.
- Enforcement
 - Suspected violations must be reported. See, 5 C.F.R. § 2635.107 and JER Chapter 8.

Framework for Analysis

- Who are you advising?
 - Civilian (career or political) or military; senior or non-senior; current or former?
- What did they do?
 - Duties, responsibilities, “matters” in DoD?
- What will they be doing?
 - Position and responsibilities post-Government?
- What rules apply and when?
 - Before: Recusal obligations. When? In writing?
 - After: What activities are restricted? Which agencies and/or personnel are “off limits”? How long do the restrictions last?

Seeking

Negotiating

Agreement

Terminal / Admin Leave

Post Government

Seeking Employment

- Conflicts of Interest
- Gifts From Prospective Employers
- Working on Terminal Leave



Seeking and Negotiating Employment

- The obligation of DoD personnel to recuse (disqualify) from particular matters that could affect the financial interests of a prospective employer
 - begins when the employee starts *seeking* employment and
 - continues through *negotiating* and concluding an arrangement for post-Government employment.

“Seeking Employment”

- 5 C.F.R. § 2635.603(b)
- You are “seeking employment” when you:
 - engage in negotiations
 - make unsolicited employment contact
 - includes sending resume
 - excludes requesting job application
 - respond to unsolicited proposal (except unconditional rejection)



Seeking Employment Examples

5 C.F.R. 2635.603 (ten examples)

Not seeking:

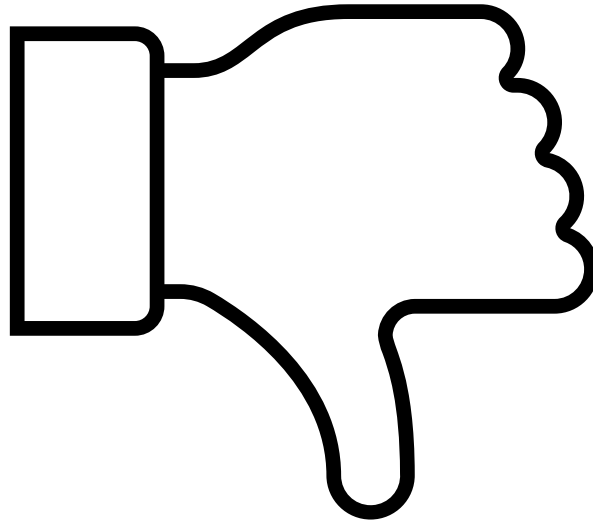
- posting resume online
- stating “I am not talking to anyone about employment until I leave the Government”

Seeking:

- Deferring job discussion until the project is finished
- When you learn the headhunter gave your resume to two companies and you don't reject the company overture

Termination of Seeking Employment

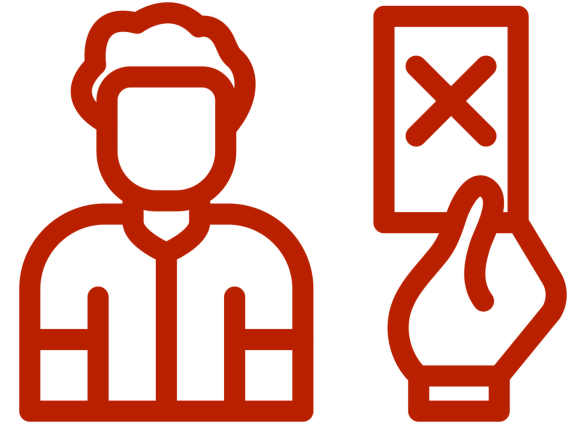
- You are no longer “seeking employment” when:
 - either party rejects proposal and discussions have terminated, or
 - two months have passed after mailing resume and no response



Disqualification When Seeking

5 C.F.R. § 2635.604 & FY22 NDAA Section 1117

- To avoid violation, do not participate in the matter.
- Make appropriate oral or written notice to supervisor, coworkers, ethics official.
- Written recusal not required at this stage (*except for procurement officials*), but is a best practice.
 - DoD rules changed with the revised Supplemental Ethics Regulation (2023) and JER (2024)
 - “Seeking” can quickly become “negotiating” at which point written recusals may be required.
- Regulatory authorization to participate possible, but not common, if negotiations haven’t started. See, 5 C.F.R. § 2635.605.



Negotiating Employment Conflicts of Interest

- 18 U.S.C. § 208, 5 C.F.R. § 2635.402
- Personnel may not take any official action that affects the financial interests of a company with which they are negotiating for employment or have an arrangement concerning prospective employment.
- DoD policy applies the restrictions to Title 32 National Guard members and enlisted members of the Military Services. See, JER Chapter 2, Section 1 and Chapter 5, Section 1.



Negotiating Employment

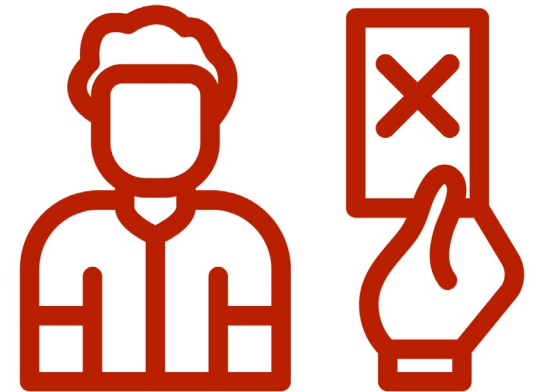


- 5 C.F.R. § 2635.603(b)(1)(i)
- Discussion or communication with another, or their agent / intermediary mutually conducted with a view toward reaching an agreement regarding possible employment with that person.
- Interpreted broadly. Not just limited to discussing specific terms and conditions for a specific position.

Disqualification When Negotiating

5 C.F.R. § 2635.604, § 2635.604, § 2635.607

- To avoid violation, do not participate in the matter.
- Make appropriate oral or written notice to supervisor, coworkers, ethics official.
- Recusal may be required for a period even if offer rejected or not made. See, 5 C.F.R. § 2635.606(b).
- Written recusal
 - Senior personnel must file STOCK Act notice with supervisor and ethics official within 3-days of commencing negotiations but may choose to file sooner. See, 5 C.F.R. § 2635.607, JER § 2-200.
 - Procurement officials must also file a written recusal. See, FAR § 3.104-5
- Waiver possible, but rare in DoD. Must be written. Requires consultation with DoD SOCO and OGE. See, See, 18 U.S.C. § 208(b) and 5 C.F.R. § 2640, Subpart C, JER § 2-201.



STOCK Act



Within 3 days of negotiating salary with a non-Federal employer, the public financial disclosure filer must file a notice of negotiation.

Best practice: use a combined disqualification and Stock Act Notice.

Sample on SOCO website.

Former Procurement Integrity Act

Special reporting rules
for procurement officials

Pre-award disclosure of
procurement information
prohibited
(present and former
officials)

Contacts with
bidders/offerors in
procurements \geq \$250K

Written “contact report”

Special disqualification
notice

Gifts From Prospective Employers

5 C.F.R. § 2635.204(e)(3)



**Meals, lodging, transportation,
etc. *customarily* offered**



Don't forget to disqualify

(if necessary)

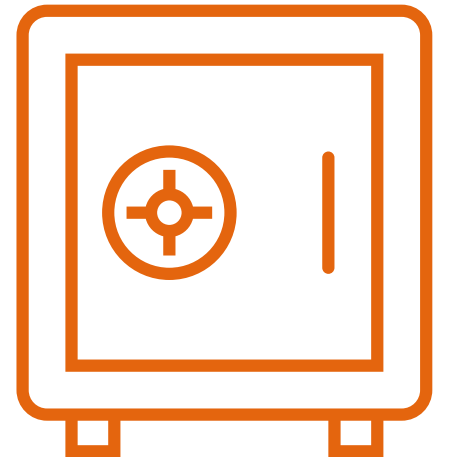
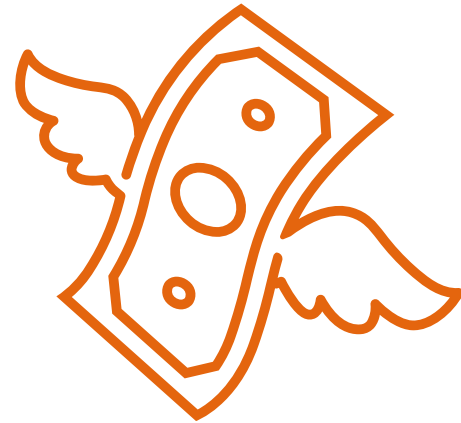
Note: Prior to accepting a gift from a prospective employer that is a foreign government controlled entity, personnel must also comply with the Foreign Gifts and Decorations Act, 5 U.S.C. 7342. See, 5 CFR § 2635.602(b)(3).

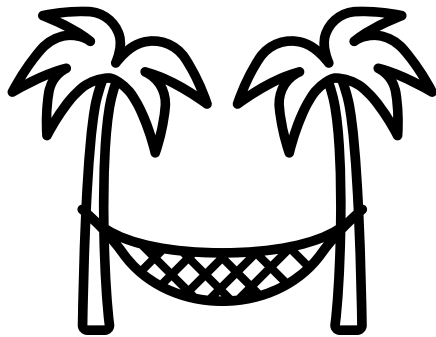
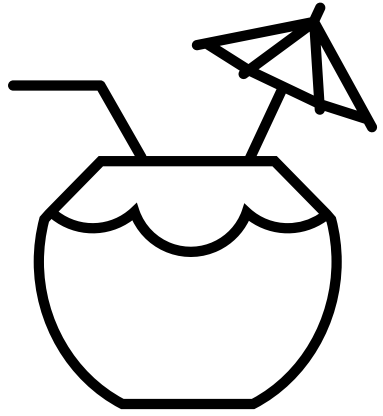
Terminal and Administrative Leave

- All Federal ethics rules still apply.
- Criminal statutes prohibit representing any non-federal entity before any Federal department, agency.
 - For example, in most instances, DoD personnel would not be able to serve as an onsite federal contractor, since doing so necessarily entails representing the contractor to DoD officials.
 - However, 18 U.S.C. §§ 203 & 205 do not apply to enlisted military or to Title 32 National Guard members. See, JER 5-201.
- Senior personnel must still file a STOCK Act notice.
- Financial disclosure filers require prior approval for outside employment and business activities with a prohibited source. See, 5 C.F.R. § 3601.106
- Ethics officials advising military members on PGE must specifically address these restrictions. See, JER 7-101.

Federal Employment While on Terminal Leave

- Dual compensation is allowed for military members on terminal leave.
See, 5. U.S.C. § 5534a.
- Active duty military officers and Reservists ordered to active duty for > 270 days may not hold Federal/state/local civil office.
See, 10 U.S. Code § 973(b).





Retired at Last!

Framework for Analysis

- Who are you advising?
 - Civilian (career or political) or military; senior or non-senior; current or former?
- What did they do?
 - Duties, responsibilities, “matters” in DoD?
- What will they be doing?
 - Position and responsibilities post-Government?
- What restrictions apply and for how long?
 - 18 U.S.C. § 207
 - Procurement Integrity Act
 - Section 1045 of the FY18 NDAA
 - Foreign employment
 - Military returning to work for the Federal government

Representational Restrictions

18 U.S.C. § 207

- Mitigates opportunity for improper influence when “switching sides”
- ***DOES NOT*** prohibit acceptance of employment
- ***MAY*** restrict scope of former employee’s activities
- N/A to former enlisted and Title 32 National Guard, but other restrictions may still apply. See, JER 5-201



Representational Restrictions

18 U.S.C. § 207; 5 C.F.R. 2641

- Prohibits representing another before all or part of the U.S. Government with intent to influence
 - Lifetime ban
 - 2-year ban
 - 1-year cooling-off period for “senior” employees (2-year for “very senior”)
 - 1-year ban on treaty negotiations (also restricts aiding and advising)
 - 1-year ban on senior employees representing foreign entities

Lifetime Ban

18 U.S.C. § 207(a)(1)

May not:

- Communicate/appear on behalf of another
- With “intent to influence”
- Regarding a “particular matter”
- Involving specific parties
- To *any* Federal employee
- Where participated “personally and substantially” as Federal employee
- *Behind-the-scenes assistance permitted*

Communication or Appearance

5 C.F.R. 2641.201(d)

- Communication – any oral, written, or electronic communication that former employee intends to be attributed to himself
 - No requirement that former employee be recognized by current employee
- Appearance – Physically present; need not involve any communication.
- Behind the scenes assistance – permitted but
 - Be careful of 3rd party intermediary communications
 - Be mindful to consider any procurement integrity, former senior official, and Presidential ethics pledge behind the scenes restrictions that may apply.



Intent to Influence

5 C.F.R. 2641.201(e)

Present when made for the purpose of

- Seeking a government ruling, benefit, approval, or other discretionary action or affecting government action in a matter involving a dispute or controversy

Not Present when made for the purpose of

- Making routine requests not involving a potential controversy, factual statements not involving element of dispute or effort to seek discretionary act of government, and social contacts

Particular matter involving specific parties

5 C.F.R. § 2641.201(h)

Particular matter:



includes a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, or investigation. Generally, does not include rulemaking, formulation of general policy, standards or objectives, or other matters of general application.

Particular matter involving specific parties

5 C.F.R. § 2641.201(h) (cont)

Would not include matters of general applicability (legislation or rulemaking)

International agreements – maybe, depending on focus (e.g. specific claim)

Must be specific parties at all relevant times (both when participating as a government employee and making the post-employment communication or appearance)

Same Particular Matter Involving Specific Parties 5 C.F.R. § 2641.201(h)(5)

- Contracts, grants, or agreements
 - Generally, a contract is a single particular matter
 - Generally new particular matter does not arise simply because of a contract modification
 - Generally successive or otherwise separate contracts are new particular matters
 - Individual delivery order or task order could be a separate particular matter in some cases



Before an Employee of the US

5 C.F.R. § 2641.201(f)

- Includes any current Federal employee
- Public Commentary – an address at a public gathering, conference, seminar, or other similar forum as a speaker or panelist is not a prohibited communication if the forum is
 - Not Government sponsored or co-sponsored
 - Attended by a large number of people
 - Significant portion of attendees are not employees of the United States

On Behalf of Another Person

5 C.F.R. § 2641.201(g)

“Person” is defined broadly. It includes an individual, corporation, company, association, firm, partnership, society, joint stock company or any other organization, institution, or entity.

It does not include the former employee himself or any *sole proprietorship* owned by the former employee

Practice Tip: Former DoD personnel providing consulting services for their LLC are acting “on behalf of another.”

Personal and Substantial

5 C.F.R. § 2641.201(i)

- Participate
 - In an official capacity
 - Decision, approval, recommendation, rendering of advice or investigation, even if for another agency
- Personal participation means direct participation
 - Includes actions of a subordinate if actually directed by the former employee
- Substantial means of significance to the matter
 - May be substantial even if not determinative of the matter



Representational Restrictions

2-Year Ban

18 U.S.C. § 207(a)(2) & 5 C.F.R. § 2641.202

May not, within 2 years of termination of Government service

- Communicate/appear on behalf of another
- With “intent to influence”
- Regarding a “particular matter”
- Involving specific parties
- That was pending under “official responsibility” during last year of Government service

Behind-the-scenes assistance permitted

“Official Responsibility”

5 C.F.R. § 2641.202(j)

- Direct administrative or operating authority to approve, disapprove, or otherwise direct Government action.
 - intermediate or final
 - exercisable alone or with others
 - either personally or through subordinates
- Official responsibility when “acting”
 - Requires more than “caretaker” responsibility. See factors in C.F.R. § 2641.202(j)(3)
- Leave status, even leave without pay and terminal leave, does not eliminate “official responsibility.”
- Disqualification does not eliminate official responsibility.
 - A formal modification of responsibilities is required to terminate “official responsibility.”

Representational Restrictions

1-Year Cooling-Off Period

- *18 U.S.C. § 207(c)*
 - Applies to former “senior” employees
 - personnel with basic pay > 86.5% percent of Executive Schedule Level II (**\$195,231 in 2025**)
 - Prohibits communications or appearances before ***former agency***,
on behalf of another,
with intent to influence,
on any matter where official action is sought



“Former Agency” Under 18 U.S.C. § 207(c)

DoD Separate Components for 18 U.S.C. § 207(c)

5 C.F.R. § 2641.302(a) and § 2641 App. B

- DoD “remainder” + 11 designated components
- For PAS, all of DoD
- Joint Assignments: Last command + military service

Defense Information Systems Agency

Defense Intelligence Agency

Defense Logistics Agency

Defense Threat Reduction Agency

Department of the Air Force

Department of the Army

Department of the Navy

National Geospatial-Intelligence Agency

National Reconnaissance Office

National Security Agency

Defense Advanced Research Projects Agency

Section 1045, FY18 National Defense Authorization Act

See, DoDI 1000.32

- Departing flag and general officers and all senior civilian equivalents are prohibited from **lobbying contacts** with *covered executive branch officials in DoD* or **lobbying activities** with *covered executive branch officials outside of DoD pertaining to a matter with respect to the DoD* for a one or two-year period after departure, depending on seniority.
- “Covered Executive Branch Official” includes all political appointees and O-7 and above military members.
 - So, lobbying a career SES or a GS-15 or below is not prohibited by Section 1045.

LOBBYING

- *Lobbying contacts with covered executive branch officials in DoD:*
 - Any oral or written communication that is made on behalf of a client with regard to the formulation, modification, adoption, administration, or execution of *any other program, policy, or position of the U.S. Government*.
 - Behind-the-scenes assistance *is not* prohibited.
- *Lobbying activities with respect to the DoD:*
 - Lobbying contacts and other lobbying activities with *covered executive branch officials* outside of the DoD pertaining to *a matter with respect to the DoD*.
 - Some behind-the-scenes assistance *is* prohibited.

Section 1045, FY18 NDAA (cont)

O-9 and O-10
and SES Tier 3
have a two-year
cooling off

O-7 and O-8 and
SES Tier 1 and 2
have a one-year
cooling off

Advising on 18 U.S.C. 207(c) and Section 1045

- To whom is the communication or activity directed?
 - 207(c): Look at the agency where the person works
 - 1045: Look at the recipients grade and type of appointment
- What communications and actions are prohibited?
 - 207(c): Communication / appearance, but behind the scenes allowed
 - 1045: Behind the scenes prohibition if directed outside DoD on DoD matter
- Length of restriction
 - 207(c): One-year
 - 1045: Two years for O-9/O-10 and civilian equivalent

See DoDI 1000.23 for additional interpretative guidance

Representational Restrictions

1-year Ban on Treaty Negotiations

- *18 U.S.C. § 207(b)*. May not **represent, aid, or advise anyone** concerning ongoing treaty negotiations if:
 - participated personally and substantially in negotiations during last year of service
 - had access to inside information
 - representation, assistance, or advice is based on such inside information
- **NO** behind-the-scenes assistance allowed



Representational Restrictions

1-Year Ban Relating to Foreign Entities

- *18 U.S.C. § 207(f)*
 - Applies to former senior employees (personnel whose basic pay exceeded 86.5 percent of the rate for level II of the Executive Schedule (EL II).)
 - Prohibits, within 1 year of terminating Government service:
 - **representing foreign entity before any U.S. department, agency, etc. with intent to influence**
 - **aiding or advising foreign entity with intent to influence decision of U.S. official**
 - **NO** behind-the-scenes assistance



207 Exceptions / Waivers

See table in 5 C.F.R. § 2641.301(I) for specific applicability

Some of the exceptions and waivers are applicable to any of the prohibitions of 18 U.S.C. § 207, whereas as others are more limited

The JER establishes the DoD's policy and procedures for obtaining certain authorizations and waivers. See, JER 7-201

Some examples

- Acting on behalf of State or local government, hospital or medical research organization, accredited degree granting institutions. Must be employee; not independent contractor or consultant. See, 5 C.F.R. § 2641.301(c)(2))
- Furnishing scientific or technological information
- Testimony under oath

Compare Section 1045 of the FY18 NDAA, which has 19 exceptions, but no waiver authority

- Communications compelled by law, subpoena, or Federal contract
- Communications in response to Government requests for information or bids related to contract proposals
- Information provided *in writing* in response to a request by a covered executive branch official

A photograph of a stealth bomber, likely an F-117, on a runway. The aircraft is dark and angular, with its nose pointing towards the viewer. Two people are standing on the runway near the aircraft. The background shows a hazy sky and distant mountains.

Procurement Integrity Act (PIA)

- Former PIA now codified: 41 U.S.C. §§ 2101-2107
- Prohibitions, restrictions, and requirements are in Federal Acquisition Regulation, FAR 3.104
- Seeking Employment:
 - Personnel participating in a Fed. Procurement > \$250,000 must report (in writing) employment contacts from offerors.
 - Disqualification required unless prompt rejection.
 - Violations can result in civil, criminal, administrative actions for the DoD official and the bidder / offeror.
- Post-Government Employment:
 - For one year, personnel who served or acted in a capacity covered by this provision in a procurement of > \$10M may not accept compensation from the prime contractor.



PGE Compensation Triggers

- Served as Procuring Contract Officer, Source Selection Authority, Source Selection Evaluation Board Member, Chief of Financial or Technical Evaluation Team for procurement > \$10M
- Served as Program Manager, Deputy Program Manager, or Administrative Contracting Officer for procurement > \$10M

- Personally made decision to:
 - award a contract, subcontract, modification, or task order > \$10M
 - establish overhead or other rates applicable to contract > \$10M
 - approve issuance of a contract payment > \$10M
 - pay or settle a claim > \$10M

Requirement for Written PGE Opinion

Section 847 of the FY08 NDAA, P.L. 110-181

- For two years after leaving DoD,
 - any personnel who participated personally and substantially in an acquisition > \$10M within two years prior to departure
 - must obtain a written PGE opinion from a DoD ethics official
 - if they expect to receive compensation from any defense contractor.
- Opinions must be issued within 30-days.
- Opinions must be requested through the "After Government Employment Advice Repository" (AGEAR) system.
- Making a proper request: Current and former DoD personnel must have at least a tentative job offer and provide a detailed job description.
- Ethics officials cannot waive or disregard this requirement.
- Personnel not covered by this requirement must request a routine written opinion by using the DD Form 2945. Requests in AGEAR from these personnel will be rejected.



AGEAR On-Line

The screenshot displays the Financial Disclosure Management (FDM) website. At the top, there is a header with the FDM logo and the text "Financial Disclosure Management" and "Secure, professional OGE 450 reporting". Below the header is a navigation bar with links: Home, What is FDM, Learning Center, Help & Support, Army OGC Annual Ethics Training, and Agency Contact & Information. The main content area is divided into three columns. The left column contains links for Registered Users (New Users, Filers, Supervisors (DoD) & Report Reviewers, POCs/Administrators, Ethics Officials & Staff, DAEQs), ETHOS (ETHOS Login), DoD only: After Government Employment Advice Repository (AGEAR), Employees (Request an Opinion, Sec. 847 Covered Officials - Mandatory Use of AGEAR, Interpretation of "Covered Department of Defense Officials" Under Section 847), and Ethics Officials (EOs) (Ethics Officials (EO), EO AGEAR FAQs, AGEAR EO Quick Start, AGEAR Business Rules, Prepopulating AGEAR Request, Form - Prepopulation Request). The middle column features "New Changes to FDM" with sections for FDM 8.11 (The 8.11.3.4 version release has user interface changes...), FDM 8.10 (In the FDM 8.10.1.8 release we have implemented the 5 FR 3601.106 Supervisor/Outside position approval check box...), and FDM Customer Service (Send an e-mail to: FDM Customer Service, or Call: (443) 861-8247, DSN 848-8247). The right column contains "Notices" (ADVISORY - The FDM application will be unavailable starting at 1300 (1 pm) EDT on Friday, 21 June 2024...), "Reminders" (New Entrant reports due 30 days after appointment date, OGE 450s: Annual OGE 450s are due 15 February 2024, OGE 278s: DoD OGE 278 filers submit their reports in Integrity.gov), and "FAQs" (How do I register?, I forgot my password?, I am having problems accessing FDM?, Why do I get an Access Denied message when logging in?, Can FDM be accessed from home?, More FAQs). A footer at the bottom contains links: Home, About FDM, Privacy, Accessibility, Help, Get FDM, Resources, User guide, Feedback, Site Index, and Powered by: CECOM SEC.

Financial Disclosure Management
Secure, professional OGE 450 reporting

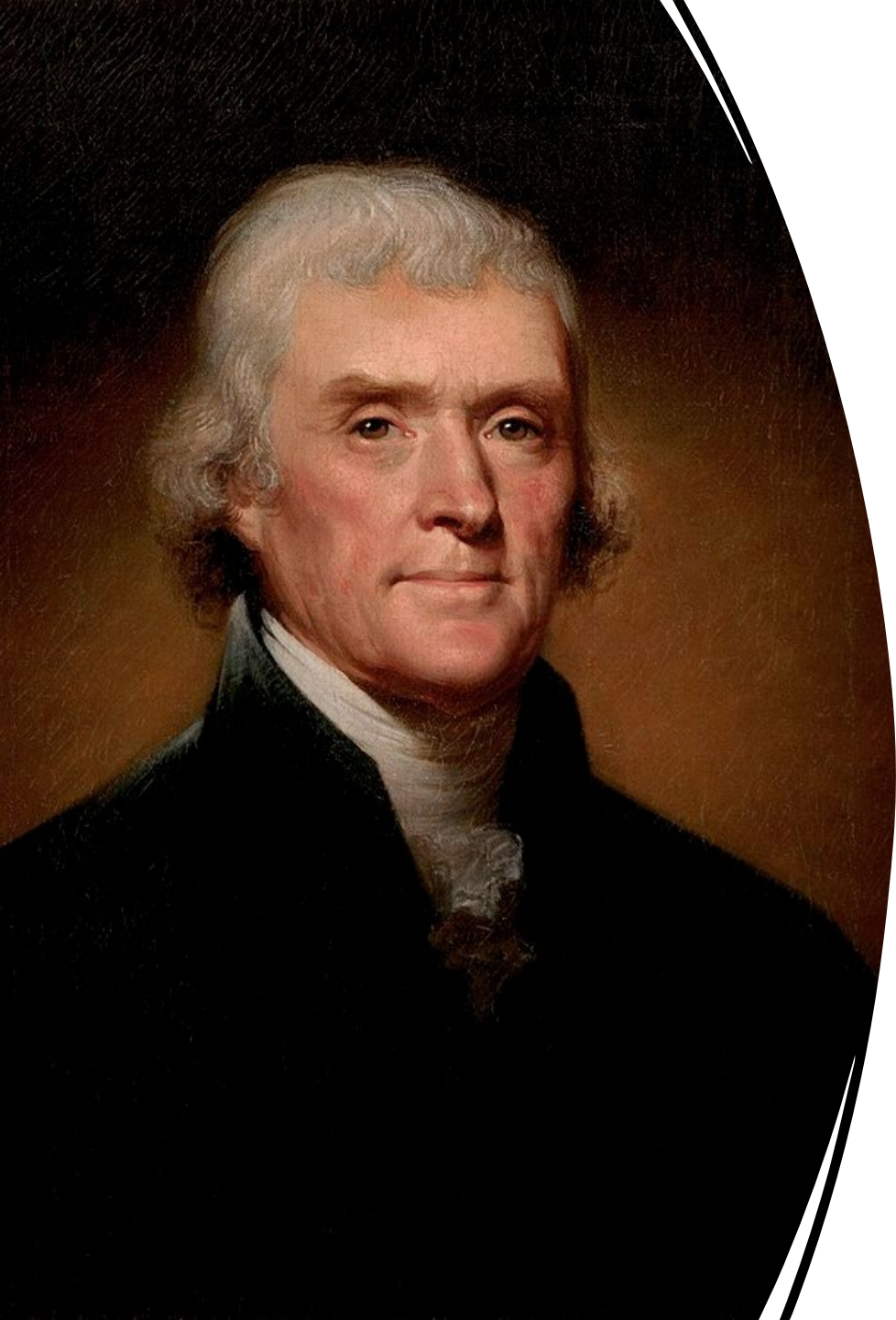
Home | What is FDM | Learning Center | Help & Support | Army OGC Annual Ethics Training | Agency Contact & Information

Registered Users
LOG IN | NEED ACCESS ASSISTANCE?
Need to Register as a Filer or Supervisor? Contact your local legal advisor or your Agency POC.
Information for ...
New Users
Filers
Supervisors (DoD) & Report Reviewers
POCs/Administrators
Ethics Officials & Staff
DAEQs
ETHOS
ETHOS Login
DoD only:
After Government Employment Advice Repository (AGEAR)
Employees ...
Request an Opinion
Sec. 847 Covered Officials - Mandatory Use of AGEAR
Interpretation of "Covered Department of Defense Officials" Under Section 847
Ethics Officials (EOs) ...
Ethics Officials (EO)
EO AGEAR FAQs
AGEAR EO Quick Start
AGEAR Business Rules
Prepopulating AGEAR Request
Form - Prepopulation Request

New Changes to FDM
FDM 8.11
The 8.11.3.4 version release has user interface changes where tabs and buttons remained the same. Changes to the Systems admin role, CSRF Token, Disclosure Detail Report Screen, 508 Compliance, and Common Questions were made. User interface changes were made, new database tables were added, new buttons were implemented, and supporting backend changed were made. This release also includes the numerous bug fixes.
♦ FDM User Guide
♦ FDM 8.11.3.4 Release Notes
FDM 8.10
In the FDM 8.10.1.8 release we have implemented the 5 FR 3601.106 Supervisor/Outside position approval check box, the automatic annual profile update functionality, and included various bug fixes.
Please see the documentation below.
♦ FDM 8.10.1.8 Release Notes
Questions or Comments can be directed to the FDM Help Desk
FDM Customer Service
Send an e-mail to: FDM Customer Service (usarmy.APG.cecom.mbx.FDMSpt@army.mil)
or Call: (443) 861-8247, DSN 848-8247

Notices:
ADVISORY - The FDM application will be unavailable starting at 1300 (1 pm) EDT on Friday, 21 June 2024 and will come back on-line no later than 2200 (10 pm) EDT on Saturday, 22 June 2024.
FDM may be unavailable Sundays, 6:00 to 8:00 pm Eastern time due to recurring DISA maintenance.
Reminders:
New Entrant reports due 30 days after appointment date
OGE 450s:
- Annual OGE 450s are due 15 February 2024
- Contact your Ethics Counselor for assistance or if you need an extension.
OGE 278s:
- DoD OGE 278 filers submit their reports in Integrity.gov. Questions should be submitted to their Agency Ethics Officials.
Do you need an extension?
Ethics officials may grant an extension for good cause. Contact your Ethics official to request an extension.
[See more information on extensions](#)
FAQs:
[How do I register?](#)
[I forgot my password?](#)
[I am having problems accessing FDM?](#)
[Why do I get an Access Denied message when logging in?](#)
[Can FDM be accessed from home?](#)
[More FAQs](#)

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Foreign Employment

- Constitution, Article I, § 9, clause 8
 - No title of nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Foreign Employment (Retired Military)

- Congressional Consent via Statute
 - Civil Employment
 - Military forces of “newly democratic nation”
- Secretary of Military Service and SECSTATE approval required for employment with a foreign government
 - includes any entity owned or controlled by a foreign government, e.g., commercial or educational entities
- Only Secretary of Service approval is required if there is no employment compensation (e.g. speeches, travel, lodging, registration fees, noncash award).



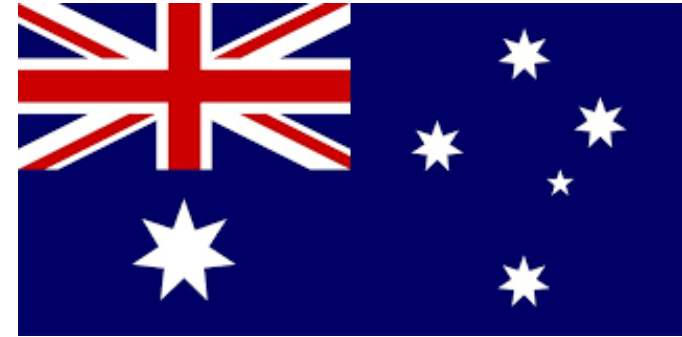
Foreign Entity

- Foreign government
- Person/group exercising sovereign political jurisdiction
- Foreign political parties
- Foreign commercial corporation if exercises the function of a sovereign



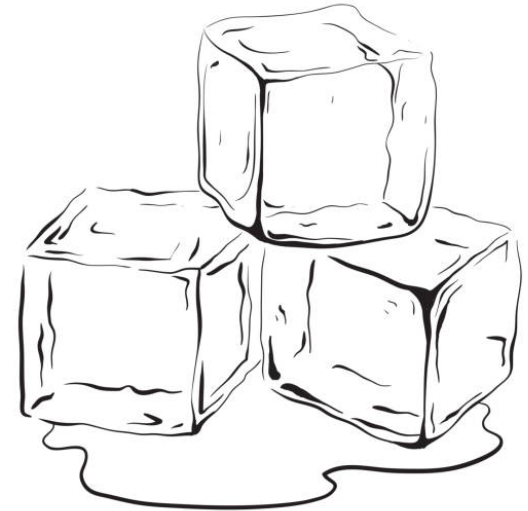
Foreign Employment

- Penalty is generally loss of all / some military retired pay
- SOCO Website: Military Department POCs
- Additional considerations:
 - Foreign Agent registration (DoJ)
 - International Traffic in Arms Regs (DoS)



6-Month Cooling-Off Period for Military

- No civilian employment within DoD for 6 months (5 U.S.C. 3326)
- Applies to all retired military members
- Waivers available from Secretary of hiring component
- Emergency exception no longer available



Summary of PGE Restrictions

		All Former	Former Senior Only	Participation in the Matter Required	Communication / Appearance	To	Behind the Scenes	Length
18 USC 207(a)(1)	PSPPMISP	X		Yes	X	Any employee of the U.S.		Lifetime
18 USC 207(a)(2)	PMUOR	X		No	X	Any employee of the U.S.		2-Yrs
18 USC 207(b)	Ongoing Trade/Treaty Negotiation	X		Yes	X	Anyone	X	1-Yr
18 USC 207(c)	Senior Cooling Off		X	No	X	Any employee of former agency		1-Yr
18 USC 207(d)	Very Sr. Cooling Off		X	No	X	Any employee of former agency		2-Yrs
18 USC 207(f)	Aiding/Advising Foreign Entity		X		X	Any employee of the U.S.	X	1-Yr
§ 1045 FY18 NDAA	Anti-Lobbying		X	No	X	"covered official"	X	1 or 2-Yrs
PIA	Procurement Officials	X		Yes (or role)	Compensation Ban			1-Yr
Emoluments Cl	Foreign Employment	Retired Military		No	Compensation Ban			Lifetime (unless 37 U.S.C. 908 approval)
50 U.S.C. § 3073A	Foreign Employment	Covered Civ / Mil IC		No	Reporting Requirement			2-Yr

SOCO Website

The screenshot displays the SOCO website interface. At the top, the header includes the Department of Defense Standards of Conduct Office logo and name, along with a search bar. The navigation menu features links for HOME, ETHICS TOPICS, ETHICS PROGRAM RESOURCES, CONTACT, and EXTERNAL LINKS. The breadcrumb trail indicates the current location: HOME > ETHICS TOPICS > POST GOVERNMENT EMPLOYMENT AND PROCUREMENT INTEGRITY. The main heading is POST GOVERNMENT EMPLOYMENT & PROCUREMENT INTEGRITY. Under the ETHICS COUNSELOR RESOURCES section, the [Ethics Counselor Toolbox](#) link is highlighted. Below this, the HANDOUTS section lists various documents, including the Post-Government Employment Advice Decision Tool (2025), Rules on Seeking Employment (2025), Model Disqualification and STOCK ACT Notification for Senior and Non-Senior Personnel (2025), Employee PGE FAQs (2022), and Post-Government Employment & Procurement Integrity Restrictions for Senior and Non-Senior (2025). A red arrow points from the [Ethics Counselor Toolbox](#) link to the [TOOLBOX \(PGE AND PI\)](#) link in the breadcrumb trail. The main content area is titled **Ethics Counselor Toolbox (Post-Government Employment and Procurement Integrity)**. It includes the [Ethics Counselor's Deskbook Chapter PGE and PI Deskbook \(2024\)](#), a note about the deskbook's purpose, and sections for Presentation & Training Materials, Forms, Templates, and Other Resources. The [Sample Post-Government Service Log \(2020\)](#) and [Model Post-Government Employment Opinion \(2024\)](#) are highlighted in the Templates section. The Other Resources section lists various guidance documents, including SOCO Interpretation of Covered DoD Officials Under Section 847 [2 year lookback] (April 16, 2014), Prevention of Violations of Post-Government Service Employment Restrictions (DepSecDef Memo, October 25, 2004), FYI: Post-Government Employment Advice/Letters (May 5, 2010), Applying the Compensation Ban to Program Managers (1999), Application of Procurement Integrity Act and Regulations (July 12, 2011), Summary of the Emoluments Clause Restrictions, White Paper: Application of Emoluments Clause to DoD Civilian and Military Personnel (2025), Information Paper on One Year Cooling-Off Period for NGB Senior Officials (2020), Reserve Officer Matrix (Quick reference on the applicability of post-Government employment rules on Officers in the Reserve Component) (2020), and DoD Instruction 1000.32 (Section 1045 Guidance) (2020).

DEPARTMENT OF DEFENSE STANDARDS OF CONDUCT OFFICE

HOME ETHICS TOPICS ETHICS PROGRAM RESOURCES CONTACT EXTERNAL LINKS

HOME > ETHICS TOPICS > POST GOVERNMENT EMPLOYMENT AND PROCUREMENT INTEGRITY

POST GOVERNMENT EMPLOYMENT & PROCUREMENT INTEGRITY

ETHICS COUNSELOR RESOURCES

[Ethics Counselor Toolbox](#). The Toolbox is intended to provide additional resources for DoD Ethics Counselors. In it, you will find the relevant Deskbook chapter, training presentations, and other materials, such as white papers, templates, forms, and worksheets. Note: In using these tools for your own program, please ensure that you replace any references to SOCO with your ethics office contact information.

HANDOUTS

- Post-Government Employment Advice Decision Tool (2025)
- Rules on Seeking Employment (2025)
- Model Disqualification and STOCK ACT Notification - Senior Personnel (2025)
- Model Disqualification and STOCK ACT Notification - Non-Senior Personnel (2025)
- Employee PGE FAQs (2022)
- Post-Government Employment & Procurement Integrity Restrictions - Senior (2025)
- Post-Government Employment & Procurement Integrity Restrictions - Non-Senior (2024)

HOME > ETHICS TOPICS > POST GOVERNMENT EMPLOYMENT AND PROCUREMENT INTEGRITY **TOOLBOX (PGE AND PI)**

Ethics Counselor Toolbox (Post-Government Employment and Procurement Integrity)

Ethics Counselor's Deskbook Chapter
[PGE and PI Deskbook \(2024\)](#)

Note: The Ethics Counselor's Deskbook is intended to serve as a hornbook to assist ethics counsel in researching a particular topic. It is not and should not be used as a source of authority.

Presentation & Training Materials

- Presentation on Post-Government Employment Restrictions (2024)
- Post-Government Employment Seminar Questions (2024)
- Presentation on the Emoluments Clause

Forms

- PGE Certification for OGE 278 Filers (Rev. 2024)

Templates

- [Sample Post-Government Service Log \(2020\)](#)
- [Model Post-Government Employment Opinion \(2024\)](#)

Other Resources

- SOCO Interpretation of Covered DoD Officials Under Section 847 [2 year lookback] (April 16, 2014)
- Prevention of Violations of Post-Government Service Employment Restrictions (DepSecDef Memo, October 25, 2004).
- FYI: Post-Government Employment Advice/Letters (May 5, 2010)
- Applying the Compensation Ban to Program Managers (1999)
- Application of Procurement Integrity Act and Regulations (July 12, 2011)
- Summary of the Emoluments Clause Restrictions
- White Paper: Application of Emoluments Clause to DoD Civilian and Military Personnel (2025)
- Information Paper on One Year Cooling-Off Period for NGB Senior Officials (2020)
- Reserve Officer Matrix (Quick reference on the applicability of post-Government employment rules on Officers in the Reserve Component) (2020)
- DoD Instruction 1000.32 (Section 1045 Guidance) (2020)