

Date: June 30, 2004

In reply refer to: Advisory-0604

Subject: Seeking Employment

To: All OCFO Employees

The following guidelines are provided to assist you in conducting activities properly as you seek non-Federal employment. These guidelines do not address every aspect of seeking employment; therefore, if you have a specific question, you should seek advice from your supervisor and/or the Agency Ethics Office.

1. If You Have Duties Involving or Affecting a Company. If you are seeking employment from a company, you may not participate personally and substantially¹ (through decision, approval, disapproval, recommendation, advice, investigation, or otherwise) in any Government matter/project—contract, source selection, claim, or sale of asset—in which the company has a financial interest. [18 United States Code (USC) 208(a); 5 Code of Federal Regulations (CFR) 2635.604(a)] If you have duties involving or affecting a company, and you want to seek employment with the company, you must be disqualified from such duties from the moment you begin to seek employment with the company. (This means as soon as you send a resume or have the first employment discussion.) Therefore, you should request to be disqualified before you actually send the resume or otherwise began seeking employment. The disqualification must be in writing. Please remember that your manager is not required to approve your request for disqualification from duties. See 5 CFR 2635.604(d). A disqualification letter can disqualify you from duties involving one company, or many companies. Also, please notify coworkers who are working with you on the project involving that company, and, you may wish to notify other coworkers as well. Such actions will ensure that everyone is aware that you are prohibited from working on matters involving the company and they will not ask you to do so. See 5 CFR 2635.604(b). To protect the Agency, your prospective employer, and yourself, it is a good idea to put your notification in writing.
2. If You Do Not Have Duties Involving or Affecting a Company. If you want to seek employment with a company, and you do not have duties involving or affecting that company, you are not required to be disqualified from duties involving that company. [5 CFR 2635.604(b), (c)] However, if that company is known to occasionally have business with your office, you may wish to follow the notification guidance above.
3. Extent of/Termination of Disqualification. Your disqualification begins at the moment you begin “seeking employment” with a company. You begin “seeking employment” when either you make a targeted inquiry about future employment (this would not include picking up an application), or when a company calls you about employment and you fail to

¹ “To participate personally means to participate directly. Also, it includes the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee’s involvement is of significance to the matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.” [5 CFR 2635.402(b)(4) & .603(d)] Examples of “personal and substantial” participation include, but are not limited to, serving as a decision maker, an approval authority, an advisor, a reviewer, an evaluator, an inspector, or an investigator.

immediately decline the offer. If your employment discussions with a company do not lead to a job, your disqualification from duties involving the company can be terminated. The disqualification lasts normally until termination of the employment talks, either by you, by the company, or by the passage of two months without further contact with the company. [5 CFR 2635.603(b)(2)] It is always best to terminate “seeking employment,” in writing, to the company. 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. [5 CFR 2635.606(b)]

4. Employment Search Firms. You may use an employment search firm, such as Headhunters, 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 CFR 2635.603(c)(Example 1)]
5. Duty to Report Certain Employment Contacts. 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. You must promptly report the contact in writing to your supervisor and to the Agency Ethics Office. Also, 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)]
6. 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 are “customarily” provided by the prospective employer to the people being interviewed. For example, the benefits you receive are not more extravagant than those received by others competing for the position. [5 CFR 2635.204(e)(3)].
7. Non-Public 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)] Thus, you may not disclose non-public information to a prospective employer. For example, employees cannot use proprietary, source-selection, or any non-public information to assist a future employer with a bid package/preparation.
8. 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—contract, source selection, claim, sale of asset—in which the company has a

financial interest. [18 USC 208(a); 5 CFR 2635.606(a)] This ban lasts until you leave Federal service.

9. Representation Ban. Employees generally may not represent individuals, companies or organizations before any Federal agency or court (including any officer or employee thereof). [18 USC 203 & 205—These are criminal statues with criminal penalties.] For example, if you accept a position with a company but remain in your Federal position to finish out the year before retiring, you should not “help the company out” during that period by contacting a Federal official on its behalf.

Also, employees may not accept compensation for assisting in the prosecution of a claim against the Government. Additionally, you may not seek or accept compensation for any representations made by you or another individual before a Federal agency or court. Therefore, if you plan to receive compensation from your prospective employer for any services rendered prior to terminating your Government service, consult your Agency Ethics Advisor before accepting.

For more information on seeking non-Federal employment, please review the subject Ethics training module by clicking on the following underlined words: [Seeking Non-Federal Employment](#).

If you have questions or encounter situations not covered by this advisory or the Website, please contact your supervisor. Supervisors with inquiries should contact the Agency Ethics Office at 504-426-0308 or 504-426-0307.



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