

633 ABW/JA POST GOVERNMENT EMPLOYMENT BRIEFING

1. PRE- SEPARATION/RETIREMENT

- Conflict of interest for Federal employee to participate “personally and substantially” in matter in which the employee has a financial interest.
- Financial interest includes prospective employers
- Issue recusal letter if have official duties involving a company with which you would like to work
- Officers may not work for a contractor in the Federal workplace while on transition leave

2. POST GOVT EMPLOYMENT RULES OVERVIEW

- One-year ban on accepting compensation from contractor
- Lifetime ban on acting as contractor’s representative on contract
- Two-year ban on acting as contractor’s representative on contract
- Additional rules for GOs/SEs
 - One-year ban on contacting Army employees
 - One-year ban on advising foreign entities

3. POST GOVT EMPLOYMENT RULES - One-year Compensation Ban

- People who serve in one of seven positions or who make one of seven types of decisions on a contract over \$10 million may not accept compensation from the contractor for one year
- One-year ban is on accepting compensation from the contractor as an employee, consultant, officer or director

4. POST GOVT EMPLOYMENT RULES - Positions Resulting in One-Year Ban

- Contracting Officer
- Source Selection Authority
- Member of Source Selection Evaluation Board
- Chief, Financial or Technical Evaluation Team
- Program Manager
- Deputy Program Manager
- Administrative Contracting Officer

5. POST GOVT EMPLOYMENT RULES - Decisions Resulting in One-year Ban

- Decision to award a contract over \$10 million
- Decision to award a subcontract over \$10 million
- Decision to award a modification that is over \$10 million of a contract or subcontract
- Decision to award a task order or delivery order over \$10 million
- Decision to establish overhead or other rates applicable to a contract valued over \$10 million
- Decision to approve issuance of a contract payment(s) over \$10 million
- Decision to pay or settle a claim over \$10 million

6. POST GOVT EMPLOYMENT RULES - When One-Year Ban Begins

- COs, SSAs, SSEB members & evaluation team chiefs – ban starts on date of contract award
 - Exception: If an individual was serving in the position on the date of contractor selection, but not on the date of the contract award – ban begins to run on date of contractor selection
- PMs, DPMs & ACOs – ban starts to run on last day of service in the position
- Decision makers – ban starts on date of decision

7. POST GOVT EMPLOYMENT RULES - Misc Provisions of One-Year Ban

-Other Divisions – One-year ban does not apply to accepting compensation from any division or affiliate of a contractor that does not produce the “same or similar products or services” as the entity that has the contract on which the individual worked.

-If the one-year ban applies: Individual may not accept compensation & Contractor may not provide compensation

8. POST GOVT EMPLOYMENT RULES - Lifetime Representation Ban

-If you participate “personally & substantially” in a particular matter such as a contract (decision, advice, recommendation, evaluations or investigation):

- You may go to work for the contractor

- You may help contractor perform the contract

- You may never act as contractor’s negotiator, spokesperson or representative on the contract before any Federal agency

9. POST GOVT EMPLOYMENT RULES - Two-Year Representation Ban

-If you did not participate personally & substantially, but the matter was under your official responsibility during your last year in the government:

- You may work for the contractor

- You may help contractor perform the contract

- You may not, for two years after leaving Govt., act as the contractor’s negotiator, spokesperson or representative on the contract before any Federal agency

10. POST GOVT EMPLOYMENT RULES - Two-Year Representation Ban

“Official responsibility” is defined in 18 U.S.C. § 202 as:

“Direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.”

11. POST GOVT EMPLOYMENT RULES - Lifetime and Two-Year Bans

-What is prohibited: Communicating with or appearing before any Federal employee, with the intent to influence, the Federal employee regarding the same contract or matter

Examples:

- Acting as company’s negotiator

- Speaking for the company in contract dispute

- Seeking, on behalf of the company, a discretionary ruling, benefit, action or approval by the Govt.

12. POST GOVT EMPLOYMENT RULES - Lifetime and Two-Year Bans

-What is permitted: Communicating with or appearing before any Federal employee regarding the contract (or other matter) without the intent to influence.

Examples:

- Requesting or providing or purely factual information to Govt. personnel regarding a contract

- Requesting from the Govt publicly available documents related to the contract or matter.

13. POST GOVT EMPLOYMENT RULES - One-Year No Contact Rule for Senior Personnel

-GOs and SESs (if basic pay exceeds 86.5% of EL II) may not, for one year after leaving their agency:

- Communicate with or appear before any officer or employee of their former agency with intent to influence that person
- On behalf of a third party (i.e. a contractor)
- In connection with any matter on which the third party seeks official action by their former agency

14. POST GOVT EMPLOYMENT RULES - One-Year Ban on Advising Foreign Entities for Senior Personnel

- GOs and SESs (if basic pay exceeds 86.5% of EL II) may not, for one year after leaving their agency:
 - Represent, aid or advise a foreign entity before any US Govt. agency with intent to influence an official decision by that agency (includes behind the scenes help)
 - Foreign entity includes a foreign govt or political party, but not a foreign private entity