

REPORTING OFF-DUTY EMPLOYMENT

In some cases you may need to file the SF 278 or the OGE Form 450. You are required to report on the form the outside positions you hold with any company or other non-federal organization, including such positions as officer, director, trustee, general partner, representative, employee and consultant.

FORM 3902

Fill out an off-duty employment approval form (AF Form 3902). Update whenever the type of employment or your employer changes, if your AF duties change significantly, or when the number or regularly scheduled hours increases.

References:

DOD 5500.7-R; J.E.R. 30 August 1993

5 C.F.R. § 2635.301-304 & 3601.107

DoD 6025.13-R, section 4.7, Off-Duty
Employment by DoD Healthcare
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OFF-DUTY EMPLOYMENT

This pamphlet provides a brief overview of the main rules affecting off-duty employment.



The information in this brochure is of a general nature and is not intended as a substitute for legal counsel.

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WORKING FOR A COMPANY

If you are participating personally and substantially as part of your official duties in a government matter, you may not work as an employee of a company or organization that has a financial interest in that matter.

WORKING AS A CONSULTANT

If you plan to participate in a particular government matter and have a business, contractual, or financial relationship with the other parties involved in the matter, and feel that your impartiality would be compromised, you must not participate. If you foresee even the appearance of a problem of this nature, inform your supervisor or an ethics official before continuing your work.

REPRESENTATION BEFORE A FEDERAL AGENCY

Commissioned military officers and federal civilian employees are generally prohibited from representing individuals, companies, and non-federal organizations before any federal agency. This rule even applied to military officers who are on terminal leave and civilian employees who are on annual leave. The rule does not apply to enlisted military personnel.

Prohibited Representation

However, not all types of representations are prohibited. Those that are prohibited include the following scenarios:

- * Signing agreements with the Department of Defense or any other federal agency
- * Signing reports, memoranda, grants or other applications, letters, or other materials intended for submission to any federal agency or tribunal
- * Signing tax returns (other than your own) for submission to the Internal Revenue Service
- * Arguing before or speaking to (with the intent to influence) any other federal employee who is acting in his official capacity or before any federal agency in connection with any matter involving the United States

Acceptable Representation

Those that *are not* prohibited include the following

scenarios:

- * Conveying purely factual information
- * Delivering or receiving materials or documents
- * Answering direct requests for information
- * Making routine request that do not involve any potential for controversy, dispute, or divergence of views between the agency and the non-federal entity (such as a request to use a meeting room)
- * Singing a document that attests to the existence or non-existence of a given fact

Since the representation statutes are federal criminal statutes, a mistake in judging whether certain actions are permissible can result in a federal criminal prosecution of the employee. For this reason, the prudent course may be to avoid all types of representation of persons, companies, and non-federal organizations before a federal agency during your off-duty employment.

NON-PUBLIC INFORMATION

Executive Branch employees may not disclose non-public information to further the private interests of any individual, company, or organization.

Non-Public Information

Information that the employee gains by reason of federal employment and that he knows (or should reasonably know) has not been made available to the general public.

CONTRACTOR ADVISORY BOARDS

DOD employees may not serve, in their official capacity, on an advisory board or advisory committee for a defense contractor. Employees who wish to serve as an advisor to a defense contractor in their personal capacity should meet with an ethics advisor to plan a legal course of action.

WORKING FOR A FOREIGN GOVERNMENT

Active-duty Air Force member, ANG, and USAFR members of the Ready Reserve are ineligible for employment by foreign governments. There are also restrictions on federal civilian employees working for a

foreign government (or a company or institution that is owned or controlled by a foreign government). If the rule might apply to you, now or in the future, please see an ethics official for guidance.

Foreign government employment is defined as any civil employment with a foreign government agency or instrumentality whether or not compensation is received. This restriction also extends to educational or commercial institutions owned, operated, or controlled by a foreign government. Eligible individuals (civilian employees or retired military personnel) must receive the joint approval of the Secretary of the Air Force and Secretary of State to be employed by foreign governments. (AFI 36-2913)

GENERAL OR FLAG OFFICERS

General or flag officers may not receive compensation for serving as an officer or member of the board of any non-federal entity (other than professional associations and closely-held family entities). Compensated service in the management of closely held family entities or professional associations must be approved by the applicable Service Secretary.

APPROVAL FOR FINANCIAL DISCLOSURE FILES

DOD employees are required to obtain prior written approval of off-duty employment if they are required to file a financial disclosure report and they will be working for a prohibited source. Off-duty employment includes employment by military members while on terminal leave and employment by civilian employees while on annual leave.

Prohibited Source

A person or organization that seeks official action by your agency, does business or seeks to do business with your agency, has activities that are regulated by your agency, or has interests that may be affected by you when you are doing your job. This includes any organization the majority of whose members are described within one of those categories.