



Seeking Non-Federal Employment

Frequently Asked Questions

Definitions

1. Are there any limitations on seeking a non-Federal job while I am working for the Service?

A: In general, you are free to seek employment with any non-Federal employer. However, if you are seeking employment while still employed by the Service, you must recuse yourself and not participate in a particular Government matter that would affect the financial interests of your prospective employer. An executive branch-wide regulation ([5 CFR 2635 Subpart F](#)) prohibits you from participating personally and substantially in a particular matter that will have a direct and predictable effect on the financial interests of a prospective employer with whom you are seeking employment, even if your job search has not progressed to actual negotiations.

Note: If you are a senior employee who files an annual OGE 278 Public Financial Disclosure Report, there are additional notification requirements. Please see FAQ 13. If you are a procurement or contracting official, there may be additional limitations. Please see FAQs 14 and 15.

2. What does it mean to “recuse” myself from working on a matter that may affect the financial interests of a prospective employer and when do I need to complete a written “recusal” and notify my supervisor?

A: A recusal is accomplished by not participating in the matter. If you are assigned a particular matter that may affect the financial interests of your prospective employer, or you become aware of the need to recuse yourself from participation in a matter, it is your responsibility to take whatever steps are necessary to ensure that you do not participate in the matter. Appropriate oral or written notification of your recusal may be made to your supervisor, an agency ethics official, and coworkers to document and help implement your recusal. It is recommended that you document the recusal in writing by email or memo. Notification to your supervisor permits the supervisor to minimize any disruption of the Service’s mission by reassigning work accordingly. A written recusal memo generally contains the following information: the name of the prospective employer; the reason for the recusal; the expected end date for the recusal; and the name of a Service employee responsible for screening and handling matters related to the potential employer while you are recused from the matter. If you have questions about when to notify your supervisor or how to document a recusal, contact the Service Ethics Office.

Example 1: Wilson, a Service grants administrator, receives a call from a company asking if he is interested in a job. Wilson is involved in granting permits for which the company is seeking approval from the Service. Unless Wilson rejects the offer, he must recuse himself from further participation in the permit authorization process. If he has the authority to ask a colleague to assume his permit responsibilities, he may accomplish his recusal by transferring the work to that co-worker. However, to ensure that his colleague and others with whom he had been working on the permit do not seek his advice regarding permits or otherwise involve him in the matter, it may be necessary for him to advise all of those individuals of his recusal requirement.



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Example 2: Carol, a Service employee, submits her resume to the University of Delaware for a job opening that she heard about through a friend. Carol has begun seeking employment. However, because she is not participating in any particular Government matters affecting the University of Delaware, she is not required to notify anyone that she has begun seeking employment.

Example 3: Carol, the employee in the preceding example, has been approached about an employment opportunity at the University of Maryland. Because the University of Maryland has applied for grants on which she has been assigned to work in the past, she wants to make certain that she does not violate the ethics rules. Carol contacts her ethics official to discuss the matter. Carol informs the ethics official that she is not currently participating in any particular matters affecting the University of Maryland. As a result, the ethics official advises Carol that she is not required to recuse herself or notify her supervisor at this time. However, the ethics official cautions Carol that, if she is assigned to participate in a particular matter affecting the University of Maryland while she is seeking employment with the University, she must take whatever steps are necessary to avoid working on the grant including recusal and notifying her supervisor.

Example 4: Sam, a Service employee, is conducting an audit of a state agency that receives grants from the Service. Sam sends an unsolicited resume to the state agency. He must immediately recuse himself from this audit because he is now seeking employment and the audit is a particular matter that may affect the financial interests of his prospective employer. Since he cannot withdraw from participation in the contract audit without the approval of his supervisor, he should notify his supervisor of his need to recuse, so that appropriate adjustments in his work assignments can be made.

3. What are the rules if I simply request a job application from a prospective employer?

A: Requesting an application does not trigger the seeking employment restrictions. However, if you send the application to the employer, then you must follow the guidance in FAQ 5.

4. What steps do I need to take if a prospective employer contacts me directly?

A: You have two options:

- **If you are interested in the position**, you may discuss it with the prospective employer. However, you are prohibited from participating in any particular Government matter that would affect the financial interests of the prospective employer. While you are discussing employment with the prospective employer, you may not make a recommendation or decision, approve, disapprove, investigate, or give advice on a Government matter that would affect the prospective employer's financial interests. Consult your Service Ethics Counselor to determine if a written recusal and/or notification to your supervisor is necessary.
- **If you are not interested in the position**, you should reject the offer and clearly communicate to the prospective employer that you are not interested in seeking employment. A response that defers discussion until the foreseeable future does not constitute a rejection of employment. Here are some examples of statements that would firmly communicate rejection: "All my time and attention right now are devoted to my Service job, and I am not in a position to discuss employment." OR "The ethics rules do not permit me to discuss possible employment with you while I am working on your contract/grant/case/regulation affecting your industry, so I am afraid my answer has to be no."

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Example 1: Bob is working on a rulemaking that affects the financial interests of a number of companies. A representative of one of the affected companies compliments Bob on his work and asks him to call if he is ever interested in leaving Federal service. Bob explains to the representative that he is very happy with his Service job and is not planning on leaving Government service in the foreseeable future. He thanks him for the compliment and adds that he'll remember the employer's interest if he ever decides to leave the Government. Bob has rejected the unsolicited employment overture and is not seeking employment.

Example 2: Bob, in the preceding example, responds by stating that he cannot discuss future employment while he is working on the rulemaking, but would like to discuss employment when the rulemaking is completed. Because Bob has merely deferred employment discussions until the foreseeable future, he has not rejected the possibility of employment and has begun seeking employment with the company. Until he clearly rejects the company's offer to discuss employment, he is prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on a Government matter that would affect the prospective employer's financial interests. If he decides to pursue the employment offer, he must notify his supervisor and officially recuse himself from working on Service matters that might affect his prospective employer's financial interests.

Example 3: Cheryl is responsible for oversight of a Service grant to a university. While discussing the grant with a university administrator, the administrator tells Cheryl that his division is thinking about hiring another grant specialist and asks whether she might be interested in leaving the Service. Cheryl says she is interested in knowing what kind of work would be involved. The administrator explains that he has not yet received authorization to fill the particular position and will get back to her when he obtains the necessary approval for additional staffing. Cheryl has begun seeking employment with the university and should immediately recuse herself from working on the grant.

5. If I see a job advertised, am I allowed to contact a prospective employer directly?

A: Yes. However, you are prohibited from participating in any particular Government matter that would affect the financial interests of that prospective employer. You may not make a recommendation or decision, approve, disapprove, investigate, or give advice on a Government matter that would affect the prospective employer's financial interests. If you are assigned responsibility for a Government matter that might affect the prospective employer's financial interests, you may be required to submit a written recusal to your supervisor. However, if you withdraw your application or are notified that your resume has been rejected, you are no longer seeking employment and no longer required to recuse yourself from involvement in matters that may affect the financial interest of the potential employer.

6. What if I submit an unsolicited resume or apply to a job advertisement and do not receive a response from the prospective employer?

A: If you send an unsolicited resume or apply to a job advertisement and:

- Two months has passed and you have not heard back from the employer, you are no longer seeking employment with that prospective employer. Therefore, you are allowed to participate in Government matters that might affect the financial interests of that employer.
- Less than two months have passed since you submitted the resume or job application, you are still seeking employment and may not participate in a Government matter that would affect the

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financial interests of that prospective employer. During that two month period, you may not be involved in any decision, approval, disapproval, recommendation, investigation, or giving of advice that would affect the prospective employer's financial interests.

Example: Joanna, a Service scientist, is a member of a team preparing the Government's case in an action brought by the Government against six oil companies. Joanna sends her resume to one of the oil companies that is a named defendant in the action. She has begun seeking employment with that oil company and is prohibited from participating in any particular Government matter that would affect the financial interests of the oil company that is her prospective employer. She may not be involved in any recommendation, decision, approval, disapproval, investigation, or provide advice in a matter that would affect the prospective employer's financial interests. However, if two months passes and she hasn't received a response from the company, she is no longer seeking employment. Also, at any time if she withdraws her application or is notified that her resume has been rejected, she is no longer seeking employment with the oil company as of the date she makes such withdrawal or receives such notification, so she is no longer required to recuse herself from involvement in matters that may affect the financial interests of the oil company.

7. What are the rules if a search firm or headhunter contacts me about a potential job, or I submit my resume to an on-line distribution service?

A: You are only considered to be seeking employment when you know the name of a prospective employer that is considering you for employment. See additional guidelines below:

- **If you know the name of the prospective employer** that is looking at your resume, you are prohibited from participating in any particular Government matter that would affect the financial interests of that prospective employer. You may not make any recommendation, decision, approval, disapproval, investigation, or provide advice in a matter that would affect the prospective employer's financial interests. Consult your Service Ethics Counselor to determine if a written recusal and notification to your supervisor is required.
- **If you do not know the name of the prospective employer**, you are not required to recuse yourself until the intermediary identifies the prospective employer to you.

Example 1: Steve, a Service employee, retains an employment search firm to help him find another job. The search firm reports to Steve that it gave his resume to and had promising discussions with two companies. The search firm tells Steve the names of the companies. Even though Steve has not personally had employment discussions with either company, he began seeking employment with each company upon learning its identity and that it has been given his resume. Until Steve clearly rejects the company's offer to discuss employment, or the company discontinues employment discussions, Steve is prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on a particular Government matter that would affect the prospective employer's financial interests. If Steve is assigned official duties involving either company, he must notify his supervisor and officially recuse himself from working on Service matters that might affect his prospective employer's financial interests.

Example 2: Jeanne, a Service employee, pays for an online resume distribution service, which sends her resume to recruiters that specialize in her field. The online service notifies her that it sent her resume to Company A and Company B. Even though Jeanne has not personally had employment discussions with either company, Jeanne has begun seeking employment with each company and each is a prospective employer. Until Jeanne clearly rejects a company's offer to

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discuss employment, or a company discontinues employment discussions, Jeanne is prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on a Government matter that would affect the prospective employer's financial interests. If Jeanne has official duties involving either company, she must notify her supervisor and officially recuse herself from working on Service matters that might affect her prospective employer's financial interests.

8. Am I allowed to post my resume or my job duties and experience in a profile on an online social networking site?

A: Yes. The posting of an employment profile or your resume on an on-line social network is not a communication with a prospective employer. The legal restrictions on your official actions related to a prospective employer are not triggered until the employer contacts you.

Example 1: Larry, a Service employee, lists his job duties and employment experience in a profile on an online, business-oriented social networking service. Larry's profile is not targeted at a specific prospective employer. Larry has not begun seeking employment because the posting of a profile or resume is not an unsolicited communication with any prospective employer.

Example 2: Larry, in the previous example, was recently notified that a representative of a university has viewed his profile. Larry has not yet begun seeking employment with the university. Subsequently, a representative of the university contacts Larry through the online forum to inquire whether he would be interested in working for the university. Larry responds that he is interested. At that point, Larry has started seeking employment with the university. Until Larry clearly rejects the university's offer to discuss employment, or the university discontinues employment discussions, Larry is prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on any particular Government matter that would affect the prospective employer's financial interests. If Larry has official duties involving the University, he must notify his supervisor and officially recuse himself from working on Service matters that might affect the university's financial interests.

Example 3: Larry, in the previous two examples, receives emails from various companies in response to his online profile. He does not respond. Larry has not begun seeking employment with the companies because he has not made a response

9. Are there any rules restricting contacts with friends, colleagues, etc. to informally discuss my job search?

A: General discussions about a job search are not restricted. However, if the conversation leads to discussing a position with a potential non-Federal employer, you are prohibited from participating in any particular Government matter that would affect the financial interests of that prospective employer. Until you clearly reject a company's offer to discuss employment, or the potential employer discontinues employment discussions, you are prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on a Government matter that would affect the prospective employer's financial interests.

Example 1: Nancy, a Service employee, is finishing a graduate school degree. A neighbor, who is a Vice President for a major environmental organization, invites Nancy to visit the environmental organization's offices. Nancy accepts the offer and meets with some of the employees of the

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organization. These employees share their experiences in looking for jobs, discuss their work with the organization, and explain why they chose to work for this environmental organization after graduating. There was no discussion of possible employment with the organization. Nancy was not seeking employment at this time. The purpose of the visit was informational only.

Example 2: Robert, a Service employee, is searching for a new job. He has coffee with a friend who works for company that does business with the Service. The friend offers to check with management to see if the company has any jobs available for Robert. Until Robert clearly rejects the company's offer to discuss employment, or the potential employer discontinues employment discussions, Robert is prohibited from making a recommendation or decision, approving, disapproving, investigating, or giving advice on a Government matter that would affect the prospective employer's financial interests.

10. Are there any additional steps I must take if I begin negotiations with a non-Federal employer?

A: Yes. You must notify your supervisor and submit a written recusal if there is a possibility that you might participate personally and substantially in a particular Government matter that will have a direct and predictable effect on the financial interests of the prospective employer. "Negotiations" begin when you enter into a discussion or communication with another person, or such person's agent or intermediary, which is mutually conducted with a view toward reaching an agreement regarding possible employment or compensation with that person. This term is not limited to discussion of specific terms and conditions of employment in a specific position.

If you occupy a senior position that requires you to complete an annual OGE 278 Public Financial Disclosure Report see FAQ 13.

11. Do these seeking employment rules apply to volunteer or unpaid activities after I leave the Service?

A: Yes. The seeking employment prohibitions apply even if you won't receive compensation.

Example 1: Catherine, a Service employee, is invited to a meeting with officials of a nonprofit corporation to discuss the possibility of serving as a member of the corporation's board of directors after she retires. Serving, with or without compensation, as a member of the board of directors constitutes employment under the "seeking employment" law and regulations. However, if she is not participating in any particular Government matters affecting the nonprofit corporation, Catherine is not required to recuse herself or notify her supervisor about the potential board membership opportunity.

12. May I accept travel expenses and amenities associated with interviews?

A: Yes. You may accept gifts of meals, lodging, transportation, and other benefits and amenities customarily provided by a prospective employer in connection with bona fide employment discussions. If you have official duties that may affect the financial interests of your prospective employer, you must put an appropriate recusal in place before accepting travel expenses and amenities associated with interviews.

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Additional Requirements for Senior Employees who file annual OGE 278 Public Financial Disclosure Reports

13. What are the special recusal and notification requirements for senior employees who file OGE 278 Public Financial Disclosure Reports?

A: You must notify the Service's Ethics Office, in writing, within three business days after starting negotiations or entering into an agreement to accept any non-Federal employment or compensation. You must use the [Stock Act Notification and Recusal Form](#) and submit it to the Service Ethics Office to fulfill this requirement.

Example 1: James, a Service SES employee, receives a phone call from the representative of a company who asks if he would be interested in a job. During this initial telephone call with the company, James indicates that he is interested in the job. They discuss generally the types of issues that would need to be agreed upon if James was to consider a possible offer such as salary, benefits, and type of work that he would perform. James has begun negotiating for future employment with the company. Within three business days after this initial telephone call, James must file written notification of the negotiations with the Service Ethics Office.

Example 2: Shelly, a Service employee who is required to file an annual OGE-278 financial disclosure form, begins negotiating a contract with a publisher to write a textbook after she leaves Government service. Within three business days after commencing negotiations, Shelly must file written notification with her agency ethics official documenting that she is engaged in negotiations for future compensation with the book publisher.

Example 3: Peter, a Service employee who is required to file an annual OGE-278 financial disclosure form, begins negotiating for future employment with a law firm. Within three business days after beginning negotiations, Peter must file a written notification of the negotiations with the Service Ethics Office.

Example 4: Charlene, a Service employee, is contacted by a prospective employer regarding scheduling an interview for the following week to begin discussing the possibility of future employment. Charlene discusses the matter with the Service's Ethics Counselor and even though negotiations have not begun, she chooses to file a notification and recusal statement prior to the interview. The notification and recusal statement contain the identity of the prospective employer and an estimated date of when the interview will occur. Charlene has complied with the notification requirement of the STOCK Act.

Additional Requirements for Procurement Officials

14. Are there any special notification requirements for Procurement Officials?

A: Yes. If you are working on a procurement contract for a contract worth more than \$150,000, and you contact or are contacted by the offeror in that procurement regarding possible non-Federal employment, you must immediately report the contact in writing to your supervisor and the Service Ethics Office. (See [41 U.S.C. 2103](#) and [48 CFR Part 3](#)).

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15. Are there any special limitations on accepting paid employment from contractors after leaving the Service?

A: Yes. If you worked on a contract in excess of \$10 million, you cannot accept compensation from that contractor within one year after you:

- Served as the procuring contracting officer, the source selection authority, a member of a source selection evaluation board, or the chief of a financial or technical evaluation team;
- Served as the program manager, deputy program manager, or administrative contracting officer; or
- Personally made for the Federal agency a decision to:
 - Award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order to that contractor;
 - Establish overhead or other rates applicable to a contract or contracts for that contractor;
 - Approve issuance of a contract payment or payments to that contractor; or
 - Pay or settle a claim with that contractor.

In addition, you may not disclose "contractor bid or proposal information" or "source selection information" to anyone not authorized to receive such information.

Definitions:

- **Direct and predictable effect.** A particular matter will have a "direct" effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest, however, if the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy does not have a direct effect within the meaning of this part. A particular matter will have a "predictable" effect if there is a real, as opposed to a speculative, possibility that the matter will affect the financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.
- **Financial interest.** A prospective employer has a financial interest if there is the potential for gain or loss to the prospective employer. The magnitude of the potential gain or loss need not be known and the dollar amount of the gain or loss is immaterial.
- **Negotiation** begins when you enter into a discussion or communication with another person, or such person's agent or intermediary, which is mutually conducted with a view toward reaching an agreement regarding possible employment or compensation with that person. This term is not limited to discussions of specific terms and conditions of employment in a specific position. This is not a high threshold.
- **Particular matter** includes only matters that involve deliberation, decision, or action that is focused on the interests of a specific person or persons or a discrete and identifiable class of persons. A matter that focuses on the interests of a large and diverse group of persons is not a particular matter. For example, deliberations, decisions, or actions focused on the public as a whole are not particular matters. Consideration or adoption of broad policy options directed to the interests of a large and diverse group of persons are not particular matters.
- **Personally and substantially.** To participate "personally" means to participate directly. 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. Participation may be substantial even though it does not determine the outcome of a particular matter. However, it requires more than

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official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality is based not only on the effort devoted to the matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation, or the rendering of advice in a particular matter.

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