Returning To the Private Sector After Your SBA Service
or
Seeking Employment While Still Employed

When you leave SBA and return to the private sector, you should know how the Federal ethics laws affect you, both while you are looking for a job and after you leave the Federal Government.[1] This handout is designed to alert you generally about the restrictions of law that apply in those situations. For more complete and specific guidance and advice, you should consult with your Center Counsel who serves as our Ethics Official.

Phase I – Looking For A Job While Still Employed At SBA.

➢ *Under a criminal law on conflicts of interest (18 U.S.C. § 208), you cannot work in your Government job on a particular matter that would affect the financial interest of an entity (or person) with which you are discussing possible employment.* The Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635, subpart F) contain a similar rule that applies even before discussions begin, and may apply even when you have just sent out a resume. Thus it would be inappropriate to discuss employment with a loan applicant or borrower at any time during the verifying, loan processing or closing of a loan. If an applicant or borrower approaches you about a potential job offer, you should diplomatically and clearly inform them that it is a violation of governing ethic regulations to have such a discussion

.

➢ *You can seek other employment while still an SBA employee; you just can't work on a matter in which that potential employer has an interest*. Under part 2635, subpart F, "seeking employment" is a broad concept, and can include simply mailing a resume even though no discussions have occurred. If you think you have a potential conflict of interest because of seeking employment, you must recuse yourself from the matter causing the conflict of interest. After you accept a job outside the Government but before you leave, you must continue to refrain from working on particular matters in your Government job that would affect the financial interest of your new employer.

➢ *You must also be careful not to misuse Government resources (such as official time, the services of other employees, office equipment and supplies, and non-public information) in connection with your job search.* Limited personal use of office equipment, etc., is permitted in accordance with Agency guidelines, and generally is restricted to breaks, lunch periods, and before or after work hours. Examples of exceeding limited personal use include asking other employees to help you on duty time, making large numbers of copies, spending extensive time on the internet, extensive use of the telephone, etc.

➢ *While you are still looking for employment, you will want to familiarize yourself with the restrictions discussed below that will apply to your future employment activities, as they may affect the focus of your job search.*

➢ *Finally, remember that you must satisfy "in good faith" all of your "just financial obligations" before leaving SBA.*

Phase II – Restrictions On Your Employment After Government Service

The following brief overview highlights the limitations on your activities after you leave the Federal Government. The Center Counsel is available to provide more specific advice on these "post-employment" restrictions, both before and after you terminate your Government service.

A. *18 U.S.C. § 207 (post employment restrictions)*.

➢ *Regardless of grade, as a former non-senior executive branch employee, you are permanently barred from representational contacts with the entire executive branch and all Federal courts with regard to a particular matter (such as a contract, loan, grant or lawsuit) if you worked on that matter while a Government employee.* If you merely supervised others who worked on the matter during your last year of service, you are restricted from making representational contacts for only two years.

➢ *There are a few limited exceptions to some of these restrictions, which may include representations on behalf of state or local*

---

[1] If you seek employment with another Federal agency or department and accept such a position, the rules discussed in this memo generally do not apply.

governments, universities, hospitals or medical research organizations, international organizations, or expert opinion testimony given under oath. For more information, consult with the Center Counsel.

➢ ***18 U.S.C. § 203 (relating to conflicts of interest)***

➢ *If, while you were employed with the Government, a private sector firm represented clients before the executive branch or any court where the United States was a party or had a direct and substantial interest, you are prohibited from sharing in the profits earned by the firm for those matters*. This often is an issue with attorneys and other professionals who, after Government service, return to private practice with firms they were previously associated with.

➢ ***SBA's post employment restrictions*** See below for the definition of "SBA Assistance"[2]

➢ *13 C.F.R. § 105.202 provides that a recipient of "SBA Assistance" may not have a former employee as its employee, partner, agent, attorney or other representative for a period of two years from the date it was granted such assistance, if the former SBA employee occupied a position involving discretion over, or exercised discretion with respect to the granting or administering of that assistance.* Failure of a recipient to comply with these provisions may result in the termination of the existing SBA Assistance or a demand for repayment of SBA financial assistance. For example, you could not represent a client as a loan packager if the client had already received a loan form SBA in which you were the approving loan officer. Also, you would not be able to be the construction contractor for the repair/replacement of real and/or business property on which you verified or signed as the reviewer for the repair/replacement cost of damage to said property.

➢ *13 C.F.R. § 105.203 provides that, without the prior approval of the SBA Standards of Conduct Counselor (also known as the Designated Agency Ethics Official), SBA will not provide "SBA Assistance" to any person who has as an employee, owner, partner, attorney, agent, owner of stock, officer, director, creditor or debtor, any individual who, within one year prior to the request for such SBA Assistance was an SBA employee.* If you anticipate any of these relationships, consult with Center Counsel immediately for more information about this regulation.

---

[2] SBA Assistance means financial, contractual, grant, managerial or other aid, including size determinations, section 8(a) participation, licensing, certification and other eligibility determinations. The term also includes an express decision to compromise or defer possible litigation or other adverse action. 13 C.F.R. § 105.201(e). However, the Ethics Official has ruled that "SBA Assistance" does not include the award of competitive contracts.