

## **POST EMPLOYMENT RESTRICTIONS** **FREQUENTLY ASKED QUESTIONS**

*The following information represents a sampling of the most frequently asked questions regarding the post-employment restrictions that apply to all former postal employees. Please note that the following information does not constitute legal advice, nor does it cover all possible issues that a former employee needs to consider to comply with these laws. Former employees with post-employment questions are strongly encouraged to seek ethics counseling from the Ethics and Federal Requirements Section of the General Counsel's Office or obtain legal advice from private counsel.*

**Q. When I retire, can I go to work for anyone I want?**

A. Yes, you can. The post-employment restrictions don't prevent you from working anywhere at all. What they do restrict is your ability to interact with government officials on behalf of your new employer. Generally, if you have no reason to *contact* postal officials about any matter related to your new job, you have no limitations or restrictions to worry about.

**Q. What is meant by "contact?"**

A. Contact can be telephoning postal officials, writing letters to postal officials, attending meetings with postal officials or having any other interaction with postal officials if the purpose of your interaction is to exercise influence on behalf of your new employer.

**Q. What should I consider if my new employer wants me to contact postal officials in my new position?**

A. Here is a *brief summary* of the three post-employment restrictions that might apply.

I. The **first restriction** is referred to as the Permanent or Lifetime Restriction. This restriction prevents a former postal employee from contacting postal officials on behalf of his new employer regarding any "particular matter" he worked on while employed with the Postal Service. The restriction lasts for the lifetime of the matter – not your lifetime – and applies when the same "specific parties" are involved. For example, if you worked on a contract (a particular matter) between the ABC Company and the Postal Service (specific parties) while you were a postal employee, once you leave the Postal Service you can't represent the ABC Company in any matter related to that contract in their dealings with the Postal Service. And, please remember, this restriction lasts as long as the contract is in effect.

II. The **second restriction** is referred to as the Two Year Restriction. Let's assume that your subordinate staff worked on the ABC Contract. You had oversight over your subordinates' activities and they spoke to you about the contract on a regular basis. However, and unlike the earlier example, you did not participate "personally and substantially" in the work yourself. Let's also assume that this contract was in effect during your last year of employment. Although you can go to work for ABC Company after you retire, you can't contact postal officials about the contract or otherwise represent the interests of ABC Company in their dealings with postal officials on issues related to this contract for the first two years following the termination of your federal service.

III. The **third restriction** you should consider is often referred to as the one year "cooling off" period. This restriction only applies to former senior employees. Senior employees are those employees who made a certain salary level or more at the time they ended their federal employment. Although the salary figure changes each year, a senior employee is one who left federal service in calendar year 2008 with a salary of \$148,953 or more; in calendar year 2007 with a salary of \$145,320 or more; or in calendar year 2006 with a salary of \$142,898 or more. This is a one-year restriction – so if you retired more than 12 months ago, this restriction no longer applies to you, no matter how high your salary was at the time you retired. Assuming that you were a senior employee at the time you left federal service, the general rule is that you can't contact *any postal official* about *any matter* on behalf of your new employer for *one full year*. And "any" means "any." Let's assume you worked in Operations and you were responsible for mail processing operations. You now work for a vending machine company that would like to put trendy new energy drinks in employee break rooms at a huge discount. Can you contact your old buddy in Supply Management about a test program to put this product in break room vending machines? Absolutely NOT! Remember, if you are a senior employee – all contacts on behalf of your new employer for one full year would violate this criminal law.

**Q. Does this mean I can't call my other old buddy in Finance and ask him to go golfing with me? I now have a corporate membership on the best course in town and we've been golfing together for years.**

A. Of course you two can still golf together. However, keep in mind that even on the golf course you should not discuss the interests of your new employer. Although you should feel free to continue your valued and long standing personal relationships with your former federal colleagues -- remember – this is a *criminal law* and you don't want to violate it. Keep your conversations personal and you will be in the clear. Also, keep in mind that your former colleague must still comply with the Standards of Ethical Conduct for Employees of the Executive Branch. Therefore, he can't give you preferential treatment simply because you are friends or former colleagues. And, of course, your former colleague remains subject to the rules about gift acceptance. If you now work for a company that does business, or would like to do business, with the Postal Service, you are

considered a prohibited source under the gift rules. .So please don't ask for any favors or offer to pay the green fees. Otherwise, you just may get an old friend into an ethics dilemma.

**Q. If I can't make contact with postal officials, what good am I to my new employer?**

A. Your postal knowledge and expertise may be exactly why your new employer wanted to hire you in the first place. Please note that you can share your knowledge, skills and ideas with your new employer in their boardroom, their office, over lunch or in any other non-postal setting. You can even tell your new employer who to contact at Postal Headquarters and what questions to ask. You just can't make the contact yourself. One other important note, remember that proprietary information should never be disclosed. For example, if you learned something while you were still a federal employee that is protected by a non-disclosure agreement, you can't disclose that information simply because you have left federal service. If in doubt, call the General Counsel's Office for guidance.

**Q. I didn't actually retire and I am not collecting a pension. Do these rules still apply to me?**

A. Absolutely, these laws apply regardless of why you chose to end your federal employment.

**Q. Do the same rules apply if I perform work for my new employer as a contractor rather than an employee?**

A. Yes, the same rules apply.

**Q. I would like to come back to work for the Postal Service under a personal services contract. May I?**

A. The good news is that the post-employment restrictions generally do not apply when your new line of employment involves working for the federal government. When you are working through a personal services contract for the Postal Service, you are really doing the work of the Postal Service. Be careful of your status, however. If you incorporate, you will be subject to the post-employment restrictions and not eligible for a personal services contract. Also, be mindful that there are certain postal policies that apply to contracting with former employees. Certain personal service contracts require approval from the Chief Human Resource Officer, Executive Vice-President.

**Q. What is the source for these laws and regulations?**

A. The post-employment restrictions are contained in the United States Code, specifically at 18 U.S.C. at section 207. You can reference the relevant federal regulations at 5 C.F.R. Part 2641 and 2637. If you violate these laws, you could be punished by a term of imprisonment and/or a substantial fine. You should know that the Office of the Inspector General regularly investigates allegations of post-employment violations. If the Inspector General's investigation determines that there is some evidence that a violation occurred, that office is obligated to present their findings to the Department of Justice to consider prosecution. So please, take these restrictions seriously.

**Q. What if I have more questions?**

A. The Ethics and Federal Requirements Section of the General Counsel's Office is always available to speak to you about these post-employment restrictions. In fact, it is advisable to chat with an ethics official before you accept a new position to ensure that you understand how these restrictions might apply to your specific situation. Some of the questions you will be asked during these discussions include:

- When did you leave federal service?
- What was your salary when you left federal service?
- What was your last position?
- Did you hold any other positions during your last two years of service?
- Who was your immediate supervisor(s) during your last two years?
- Did you perform any work related to your new or prospective employer in your former position?
- Did your subordinate employees, if any, perform any work related to your new or prospective employer?
- If you respond yes to either of the last two questions, you will need to describe your official duties and the nature of the contact you or your subordinate employees had with your new or prospective employer.

**Q. How can I reach the Ethics and Federal Requirements Section?**

A. You can call the office at 202-268-6346 or email your questions to [ethics.help@usps.gov](mailto:ethics.help@usps.gov).