

Office of Government Ethics

03 x 10

**Letter to a Former Federal Employee
dated December 9, 2003**

This is in response to your letter of October 28, 2003, to [a] Department and this Office asking whether you are permanently barred from working as a consultant on projects related to [a program area] administered by the Department. Ordinarily, individual agencies have the primary responsibility for providing advice to former employees regarding post-employment restrictions because they are in the best position to ascertain the relevant facts. Nevertheless, we would like to provide you some general information concerning the post-employment restrictions.

Section 207 of title 18 of the United States Code contains several restrictions that apply to former employees. The restrictions vary depending on the former employee's Government position as well as the nature of his Government duties. The basic post-employment restriction which applies to all former Government employees is found at section 207(a)(1).¹ That provision permanently prohibits a former employee from communicating to or appearing before the Government on behalf of another, with the intent to influence the Government concerning a "particular matter involving specific parties," which the former employee worked on as a Government employee. You should keep in mind that this provision does not prevent you from working for a particular company; rather, it limits the type of activities you may perform during your employment. It also does not prohibit you from providing behind-the-scenes assistance to someone else in connection with any particular matter, provided you make no communications to, or appearances before, a Government employee with the intent to influence that employee. Likewise, a request to an agency for purely factual information or for public documents, or purely social contacts with former co-workers would not violate the provision.

¹There are additional post-employment provisions that apply to supervisors. If you were a supervisor at the [agency], you should seek additional advice from the Department about those restrictions.

The prohibition in section 207(a)(1) applies only in connection with certain particular matters involving specific parties that you worked on as a Government employee, such as the [contracts] you described. Accordingly, you would not be permitted to represent someone back to the Government in connection with a matter arising under one of those [contracts]. However, there may be a question as to whether a [contract] that you worked on while employed for the Federal Government will be the same "particular matter involving parties" that you may be asked to work on for a new employer. For example, if a [contract] that you worked on while you were with the [agency] has substantially changed so that it is no longer the same [contract] (e.g., there are different [contract] terms and different confidential information involved and there has been a significant period of time since the [contract] was entered), then you may be permitted under section 207(a)(1) to represent someone on the substantially different [contract]. Whether section 207(a)(1) would apply to the specific post-employment activity you are contemplating, however, would best be addressed by your former agency.

We have spoken with [an official] at the Department, and she will be responding directly to you regarding your inquiry.

We hope this information is helpful to you.

Sincerely,

Marilyn L. Glynn
General Counsel