

Reclamation Manual

Policy

Post-Government Employment

1. **Purpose.** This appendix establishes procedures for employees who are departing Reclamation in order to receive appropriate guidance on the ethics regulations and statutes related to seeking and participating in employment with non-Federal entities following their service with Reclamation.
2. **Definitions.**
 - A. **Seeking Employment.** An employee has begun seeking employment if the employee has directly or indirectly:
 - (1) made an unsolicited communication to any person, or such person's agent or intermediary, regarding possible employment with that person. However, the employee has not begun seeking employment if that communication was for the sole purpose of requesting a job application, or
 - (2) made a response, other than rejection, to an unsolicited communication from any person, or such person's agent or intermediary, regarding possible employment with that person.
 - B. **Negotiating Employment.** An employee is negotiating employment when he or she engages in any bi-lateral discussions or communications with a person with a view toward possible employment.
 - C. **Senior Employee.** A "Senior Employee" is an employee Level II through V of the Executive Schedule and those paid equal to or greater than 86.5% of the rate for level II of the Executive Schedule.
3. **Process for Separating Employees.** Employees leaving Reclamation are required to certify that they understand and will comply with restrictions on post-employment activities.
 - A. **Submit Form 7-2662.** This certification is done by submitting Form 7-2662 to your servicing ethics official no less than five days prior to your last day at Reclamation. Every employee departing Reclamation must complete and submit the Form 7-2662. Employees must note whether or not they will continue with federal service or engage in employment with a non-Federal entity. (Refer to Exhibit 1 of this appendix for Form 7-2662.).
 - B. **Continuing Federal Government Service.** For employees who will either work for another Federal agency or will no longer be working, there is no further requirement.
 - C. **Leaving Federal Government Service.** For employees who will be employed by any non-Federal entities, additional ethics guidance is required to ensure there are no

Reclamation Manual

Policy

current or future conflicts of interest. These employees will consult with their ethics official.

4. **Seeking Post-Government Employment.** As soon as you begin seeking post-government employment, employees must consult with their ethics official to ensure there are no current or future conflicts of interest. Federal employees are free to seek employment with any individual, organization, or entity that they wish. However, there are specific rules regarding seeking post-government employment that must be followed for an employee to avoid a conflict or potential conflict of interest.
 - A. **When a Disqualification is Required.** Employees must disqualify themselves from participating in any official matter involving a person or entity with whom he or she is seeking or negotiating employment. In most instances, disqualification is accomplished by not participating in the matter. However, depending on the circumstances, a written recusal may be warranted.
 - B. **When a Disqualification is not Required.** An employee who is seeking employment with a person or entity whose financial interests are not affected by the performance or nonperformance of his or her official duties generally has no obligation for disqualification.
5. **Notification of Post-Employment Negotiation or Agreement.** The Stop Trading On Congressional Knowledge (STOCK) Act requires public filers (employees required to file the OGE-278 Public Financial Disclosure Report) to file a statement notifying their ethics official of any negotiation for or agreement of future employment or compensation with a non-Federal entity within three business days after commencement of the negotiation or agreement for employment. Contact your ethics official to assist with filing this statement.
6. **Post-Employment Restrictions.** After you leave Federal service, 18 USC 207 and 5 CFR part 2641 impose certain post-Government employment restrictions that may limit the type of work you may perform for your new employer for certain periods of time. Employees must consult with their ethics counselor for further guidance if any of the following seem applicable to their circumstances.
 - A. **Lifetime Restriction.** If you participated personally and substantially in any particular involving specific parties (grants, contracts, licenses, permits, applications, litigation, etc.), you may never communicate with the intent to influence on behalf of any non-Federal entity, to any Federal department, agency, or court regarding that same particular matter. (18 USC 207(a)(1)).
 - B. **Two-Year Restriction.** For matters in which you did not participate personally and substantially but were under your official responsibility during your last year of Government service, you are restricted for two years after you leave Government

Reclamation Manual

Policy

service from representing any non-Federal entity to any Federal department, agency, or court regarding those matters. (18 USC 207(a)(2)).

- C. **One-Year Restriction on Aiding and Advising.** For one year following the termination of Government service, you may not aid or advise any person or entity (other than the United States) concerning any ongoing trade or treaty negotiation in which you participated personally and substantially during your last year of Government service. (18 USC 207(b)).
- D. **Additional Rules for Senior Employees.**
- (1) One-Year Restriction on Communication with One's Former Agency. For one year after leaving senior service, no former senior employee may make, with the intent to influence, any communication to or appearance before the Department or agency in which he or she served in the one-year period prior to termination from senior service. Consult your ethics official for certain limited exceptions to this prohibition. (18 USC 207(c)).
 - (2) One-Year Restriction Relating to Foreign Entities. For one year after leaving Government service, a former senior employee may not knowingly aid, advise, or represent a foreign entity, with the intent to influence the official action of any employee of any U.S. agency or department. (18 USC 207(f)).
- E. **Additional Restrictions for Individuals Involved in Procurements.** The Procurement Integrity Act imposes additional restrictions for certain employees who participated in costly procurement work. Employees in this category must discuss their circumstances with their ethics official and refer to 41 USC 2104 and 48 CFR 3.104-1 through 3.104-9 for more information.
- F. **Tribal Organization.** Former employees who are carrying out official duties as an employee or as an elected or appointed official of a tribal organization or intertribal consortium are not subject to 18 USC 207 restrictions if they advise the Government in writing of any personal and substantial involvement they had as a Government employee in connection with the matter. (25 USC 5323(j).)

7. Post-Government Employment Examples.

- A. **Example 1:** Employee attends a stakeholder meeting and is approached by an individual from a particular Irrigation District about a potential job opportunity. Employee is intrigued by the job offer and tells the employee from the Irrigation District that “he’ll think about the job offer.” At this point, employee would likely be considered “seeking employment” with the Irrigation District. If the employee is working on any particular matters involving the Irrigation District, the employee would

Reclamation Manual

Policy

need to recuse himself and stop working on any matters involving the Irrigation District.

- B. **Example 2:** In the same situation as Example 1, but employee tells the Irrigation District that he unequivocally rejects the job offer and tells the Irrigation District that he is not interested in the position. At this point, employee would not be considered “seeking employment” and no further action would be warranted.

- C. **Example 3:** Employee administered a particular contract with Irrigation District X. Employee is then hired by Irrigation District X and is asked to represent Irrigation District X before Reclamation on that same contract. The employee would have a lifetime restriction and may never communicate with the intent to influence on behalf of any non-Federal entity, to any Federal department, agency, or court regarding that particular contract.