



POST-GOVERNMENT EMPLOYMENT FREQUENTLY ASKED QUESTIONS (FAQS) DHA SENIOR OFFICIALS

These FAQs apply to personnel who are Senior Officials (i.e., general officers (GO), flag officers (FO), members of the Senior Executive Service (SES)). There are special PGE rules for GO/FO/SES.

If employees need further clarification or have additional questions, they may contact their local ethics official or DHA HQ Ethics Branch (DHA-OGCEthicsOffice@health.mil) for more information.

1. How do I know if I need to request PGE advice?

You need to request PGE advice if you are or will be seeking employment with any entity (including state and local Governments) doing business with or seeking action from the Federal Government.

- This includes, but is not limited to, contractors such as pharmaceutical companies, consultants, and medical service companies that do business with DHA. It includes, but is not limited to, hospitals and academic institutions that have agreements with DHA's MTFs or participate in clinical investigations. It may also include non-profit institutions and medical associations that license and certify military physicians and associations that inspect and certify DHA medical services or facilities.
- “Seeking action from” can include any official action, regardless of significance and may include meeting requests, requests for speakers, participating in studies, or joining agreements.

You do not need to request PGE advice if you:

- Plan to fully retire and “go fishing”;
- Plan to work for entities that do not do business with or seek action from the Federal Government; or
- Plan to work for another Federal Government agency or entity.

If you are not sure, it is always best to check with an ethics official.

2. When in the process should I seek advice about my future work plans?

Early! Seek advice as soon as you are thinking about leaving the Federal Government, before you send out resumes or work with a headhunter, especially if you are going into the private sector. There are many potential conflicts of interest in your current position that can arise just by talking to potential employers or even just sending out your resume. Understand these challenges before you begin your “job hunt.”

3. How can I obtain PGE advice?

Contact your local ethics official. If you do not know who your local ethics official is, contact the DHA HQ Ethics Branch at: DHA-OGCEthicsOffice@health.mil.

Additionally, the [DoD's Standards of Conduct Office's website](#) has many helpful tools and information about PGE.

4. How can I request a PGE opinion letter?

Once you have at least a tentative job offer with a detailed description of your new duties, you may request an opinion letter. You must submit a complete and accurate [DD Form 2945](#), Request for Post-Government Employment Opinion, along with your request to an ethics official.

Note: Section 847 of the 2008 NDAA requires that certain individuals who participated in a procurement valued in excess of \$10 million submit an online version of the [DD Form 2945](#) using the After Government Employment Advisory Repository (AGEAR) system. If you participated in a contract over \$10 million in the last two years, check with an ethics official. The link to AGEAR request can be found www.fdm.army.mil on the lower left side of the page.

5. What if a company wants an opinion letter in order to interview me?

An opinion letter applies the law to your specific facts and circumstances and requires analysis of both your Federal Government duties and your anticipated post-Government duties. It is not feasible to issue a letter prior to receipt of an offer with specific duties, nor would a generic restatement of the law be of use to your prospective employer in determining your restrictions. (A tentative offer is enough and can be contingent upon receipt of the letter.)

6. As a former DHA senior official, may I come back to DHA to present on behalf of a professional association six months after leaving DHA?

No, as a senior official you are subject to the One-Year Cooling Off period, which prohibits you from representing back to DHA on behalf of another.

7. I am a former DHA senior official who left DHA nine months ago. May I make a brief telephone call to a colleague at DHA concerning an ongoing clinical investigation on behalf of my new employer that we worked on while I was with the Government?

No. The One-Year Cooling Off period and the Lifetime Ban both prohibit communicating back to the agency on behalf of another. Here, there appears to be a clear communication with an intent to influence and it is on a particular matter in which you substantially and personally participated, so this is not permissible.

8. **In the example above, what if I did not work on the clinical investigation myself, but I was a supervisor and my subordinate did. It has been a year and a half since I left DHA. Is this okay now?**

No. While you are no longer subject to the One-Year Cooling Off Period, the Two-Year Representational Ban would come into play. For two years after leaving Government service, you may not represent someone else to the Government regarding particular matters involving specific parties that were pending under your responsibility during your last year of Government service.

9. **I retired as from the Navy as a flag officer eight months ago. I want to call the Navy (not DHA) to discuss an ongoing investigation that involves my current employer. Is this allowed?**

No. For the purposes of the One-Year Cooling Off Period, your former agency is the component where you were assigned (DHA) and your military department. The prohibition includes any Navy personnel at any agency. This means you may not reach back to any DoD agency if the person you intend to engage is from the Navy.

10. **I prepared a report for one of my clients, a DHA contractor. I worked on this contract while I was a DHA employee. I know this report will be presented to DHA by my client. The report is not signed by me, but the document does bear the name of my small firm. I expect that it is commonly known throughout DHA that I am the author of the report. Is this okay?**

No. When the report is submitted to the DHA, you would be making a communication and not merely confining yourself to behind-the-scenes assistance, because the circumstances indicate that you intended the information to be attributed to you. This would be prohibited whether or not you worked on the contract as a DHA employee, if you left DHA within the past year because it would violate the One-Year Cooling Off period.

11. **As a former DHA senior official, may I call a current DHA non-SES/GO/FO employee to complain about the investigation methods being used by DHA in connection with an investigation of my current employer?**

If you left DHA within the past year, the answer would be no. Senior officials may not represent someone else with an intent to influence before the official's former agency regarding any official action for one year after they leave the Federal government. If, however, you left DHA over a year ago and you did not work on this investigation as a DHA employee, this would be permissible.

12. **As a former DHA senior official, may I ask a DHA employee certain factual questions about a contract that my current employer, a DHA contractor, is working on?**

Yes, provided the discussion remains limited to those factual questions. The discussion may not concern any matter that is known to involve a potential controversy between the agency and the contractor. This is permissible as long you have not made a communication with the intent to influence. However, it is usually best to wait until the end of the cooling off period as conversations can easily be misinterpreted.

13. My coworker asked me to provide technical data called for under a Government contract I worked on while a DHA employee. Can I do provide the technical data?

Yes, but not advisable. Merely providing technical data required under the contract is not considered representing back with the intent to influence, and thus it is permitted. That said, since you are under a representation ban on this contract, it is always advisable that you have another employee provide the information back to DHA. Any conversation you have or email with a DHA employee about this contract places you at risk for an allegation of intending to influence back. This is a criminal statute that you should avoid the gray area. Strongly recommend against communicating, even those that are technically permitted, if it is a contract that you worked while at DHA.

14. As a former DHA senior official, may I join a call with my supervisor and DHA to discuss the terms of a contract that my employer has with DHA? I did not work on this contract at DHA, and I left DHA five months ago.

No. Under some circumstances, a former employee's mere physical presence, without any communication by the employee concerning any material issue or otherwise, may constitute an appearance with the intent to influence an employee of the United States.

15. As a DHA senior official, I performed certain feasibility studies and other basic conceptual work for a possible new technology system. At the time I was involved in the matter, DHA had not identified any prospective contractors who might perform the work on the project. After I left, DHA issued a request for proposals to construct the new system, and I want to represent one of the bidders in connection with this procurement. It has been six months since I left DHA. Is this allowed?

No. This would not be permissible under the One-Year Cooling Off Period. Also, as a reminder, you will always be prohibited from releasing any non-public information.

However, you are not subject to the Lifetime Ban in this situation because, even though the procurement is a particular matter involving specific parties at the time of her proposed representation, no parties to the matter had been identified at the time you participated in the project as a Government employee.

16. As a DHA senior official, I drafted one provision of a DHA contract to procure new software. After I left Government, a dispute arose under the same contract concerning a provision that I did not draft. May I represent the contractor in this dispute?

No. The contract as a whole is the particular matter involving specific parties and may not be fractionalized into separate clauses for purposes of avoiding the prohibition of the Lifetime Ban. Remember, senior officials are subject to the Lifetime Ban and the One-Year Cooling-Off Period.

17. What if, in the previous example, it had been more than one year since you departed from the DHA? Would it be okay now?

No. Even though the One-Year Cooling Off Period has expired, you are still subject to the Lifetime Ban, which will last for the lifetime of the contract.

18. What if, in the previous example, a new software contract was awarded to the same contractor through a full and open competition, following my departure from DHA. Would it be okay now?

Yes, as long as you departed from the DHA over a year ago. Although no major changes were made in the contract terms, the new contract is a different particular matter involving specific parties.

19. I served on a source selection board for a contract awarding a contractor with a \$15 million contract four months ago. May I go work for this contractor on a matter that has nothing to do with DHA?

No. The Procurement Integrity Act limits a Federal Government employee who participated in awarding a contract in excess of \$10 million or served as a contracting officer, source selection authority, or member of a source selection team, technical evaluation team, program manager, or deputy program manager for a contract in excess of \$10 million from receiving any compensation for one year from the time of the work was completed. You currently may not work for this contractor.

20. I retired as an SES. May I represent back to another DoD agency that is not DHA on behalf of my employer?

This is not permissible if the person you are engaging with is a GO/FO/SES or a political appointee. Under Section 1045 of the FY 2018 NDAA, all senior officials are barred from representing back to any DoD agency on behalf of another to a covered official for one year. For Tier 3 and 4 SES and O9 or O10 GO/FO, the ban is for two years. If you are in this situation, please contact your ethics official for additional information. [See also DoDI 1000.32.](#)

21. What is required for a military retiree to gain approval to work for a foreign government or a contractor that is controlled by a foreign government?

The Emoluments Clause prohibits active duty and Federal civilian employees from receiving pay from a foreign government. This bar also applies to military retirees. Military retirees may seek

approval through their Service secretary which is then processed through the Department of State. Not seeking approval in advance may jeopardize your retired pay.

22. As a GO, may I work for a Government contractor while I am on terminal leave?

You remain a full time Government employee while on terminal leave. The criminal statutes, 18 U.S.C. §§ 203 and 205, prohibit full time Government employees from representing back to the Government on behalf of another. Ideally, you should only perform behind the scenes work during this time. Please contact your ethics official for more clarification on the restrictions of the criminal statute, as you do not want to violate these statutes with criminal penalties.