

regulation and rendering of legal opinion, no attorney-client or other confidential relationship is created. Communications made to an Ethics Counselor in seeking such advice are not privileged.

(2) This counseling and advice is personal to the current or former DoD employee. It does not extend to the individual's business, employer, or prospective employer.

### Subpart I—Post-Government Service Employment

#### § 84.29 Office of Government Ethics regulation.

(a) See 5 CFR part 2637, "Regulations Concerning Post-Employment Conflict of Interest".

[5 CFR part 2637 applies only to DoD employees who left Federal Government service before 1991]

(b) See 5 CFR part 2641, "Post-Employment Conflict of Interest Restrictions".

[5 CFR part 2641 applies to DoD employees who left Federal Government service on or after January 1, 1991]

#### § 84.30 Guidance on 18 U.S.C. 207.

(a) *OGE guidance.* See Office of Government Ethics memorandum,<sup>22</sup> "Revised Materials Relating to 18 U.S.C. 207," November 5, 1992.

(b) *DoD guidance.* The restrictions imposed by 18 U.S.C. 207(a), (c) and (d) do not apply to communications made solely to furnish scientific and technical information that are authorized by the Head of the DoD component.

(1) To obtain such an authorization in the case of former DoD employees:

(i) The head of the DoD component command or organization involved shall submit, in writing, to the Head of the DoD component a request that the former DoD employee be permitted to participate in a particular matter from which he would ordinarily be barred under 18 U.S.C. 207;

(ii) The Head of the DoD component or designee may determine in writing that such participation is appropriate if:

(A) The former DoD employee has outstanding scientific or technological qualifications;

(B) The national interest of the United States would be served by such participation;

(C) The former DoD employee has qualifications that are otherwise unavailable; and

(D) The Head of the DoD component or designee has consulted with the DoD component DAEO.

(2) In cases involving former Federal Government employees other than former DoD employees, authorization may be obtained in accordance with procedures in 18 U.S.C. 207(j)(5).

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, Apr. 24, 1995]

#### § 84.31 Post-employment counseling and advice.

(a) *Written advice.* Current and former DoD employees may obtain counseling and written advice concerning post-employment restrictions from the Ethics Counselor of the DoD component command or organization from which they are leaving, or have left, Federal Government service. Current and former DoD employees are, by statute, entitled to written advice from the DoD component DAEO or designee under 10 U.S.C. 2397b and 41 U.S.C. 423. See § 84.32 (a)(3) and (b)(3).

(1) Although ethics counseling and advice are given by DoD attorneys and involve interpretation of law and regulation and rendering of legal opinion, no attorney-client or other confidential relationship is created. Communications made to an Ethics Counselor in seeking such advice are not privileged.

(2) Ethics counseling and advice are personal to the current or former DoD employee. They do not extend to anyone else, including his business, employer, or prospective employer.

(b) *Delegation of authority.* The DoD component DAEO may specifically delegate authority in writing for Ethics Counselors within the DoD component to provide written advice under 10 U.S.C. 2397b and 41 U.S.C. 423. In any case where the local Ethics Counselor does not have the authority by written delegation, he shall provide the counseling and obtain the request for advice

<sup>22</sup> Copies are available from U.S. Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917.