

SUPPORTING STATEMENT – PART A

Post Government Employment Advice Opinion Request – 0704-0467

A. JUSTIFICATION

1. Need for the Information Collection

The information collection is necessary to obtain information on which to base an opinion about post Government employment of select former and departing Department of Defense (DoD) employees seeking to work for Defense Contractors within two years after leaving DoD. The departing or former DoD employee uses the opinion request form to organize and provide employment-related information to an ethics official who will use the information to render an advisory opinion to the employee requesting the opinion. The National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, section 847, <http://www.dod.mil/dodgc/olc/docs/pl110-181.pdf>, requires that select DoD officials and former DoD officials who, within two years after leaving DoD, expect to receive compensation from a DoD contractor, shall, before accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

In addition to the referenced statute, many private sector employers ask retiring DoD personnel to provide post Government employment ethics opinions from the DoD counsel. This form is used by DoD ethics officials to gather information to write the appropriate opinion. Using the form is more efficient than asking the same questions each time an opinion letter is requested.

2. Use of the Information

DoD personnel (the respondents) that are accepting a job in the private sector are subject to Post-Government employment laws. Many private, non-Federal entities request a post-Government employment letter from the former DoD employee's ethics official. In order to write this letter, DoD ethics officials must collect information about the former DoD employee, where he or she worked, what he or she did at DoD to determine if those duties would conflict with their new duties with their private sector employer. The form captures the necessary information to draft the opinion letter. Without the form, the ethics attorney could not draft the letter. Without the letter, the respondent would not be able to take the new private sector job. The form only asks for questions such as how long they served in DoD at which position, and for a job description of that position(s). Respondents access the form after asking for an opinion, or, when asking to receive an ethics briefing. The ethics office provides them with a form. Generally, the form is returned via a scanned copy by email. Some forms are returned hard copy. The form has a Privacy Act Statement on it providing for appropriate disclosure for the respondent. The form is a system of Records under the Office of Government Ethics. Outside of the form, no other invitations or communications are sent to the respondent. The information is used by a private sector firm to hire the former DoD employee relying upon the Government ethics opinion that

the former government employee would not violate the law working for the private sector entity. The form captures information that could inform whether the former employee could violate 18 U.S.C. 207(a)(1)(2) and c. The former employee could also violate the Procurement Integrity Law at 41 U.S.C. 2104. Finally, the former employee is subject to 847, and could violate that law. The form asks questions that address the elements of the criminal ethics post employment law, 18 U.S.C. 207(a)(1), (2), and 207(c), the procurement integrity act, and section 847.

3. Use of Information Technology

About 90% of the forms are submitted by e-mail and 10% are submitted by postal mail. The DoD utilizes a web site to receive electronic submission of the opinion request and supporting information for section 847 opinions. 100% of all 847 opinions are filed electronically. As a result, there is no need to increase the use of information technology.

4. Non-duplication

The requested information is not already available which is why we need the form.

5. Burden on Small Business

Collection is limited to DoD personnel leaving DoD employment and will not include small businesses or other similar entities.

6. Less Frequent Collection

Information collection is only required when certain DoD personnel leave DoD for the private sector. This is not an annual collection of forms gathered from the same people. If the questionnaire would not be used, we would have to call and ask, or, email and ask the same questions of certain departing officials to determine if a violation of the conflict of interest laws occurred.

7. Paperwork Reduction Act Guidelines

This collection will be conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d) (2).

8. Consultation and Public Comments

a. A 60 Day Federal Register Notice was published in the Federal Register on June 14, 2016 (81 FR 38693). No comments were received. A 30 Day Federal Register Notice was published in the Federal Register on October 7, 2016 (81 FR 69800).

b. The DD Form 2945 was created by DoD Ethics Officials to help opinion requestors identify and organize information required by the ethics officials to provide advice. Consultations with representatives from the Army, Navy, Air Force and other DoD agencies on the type of information needed, format, availability of required information from other sources, methodology to collect the information, form clarity and instructions on why and how to provide

the information were obtained via personal interviews and e-mail requests. As recommendations and suggestions were received they were either incorporated into the process or omitted as overly burdensome. For example, if a former employee represents his new employer on a particular matter involving a specific party that was pending his supervision during his last year of service, we have added that question to the form to ensure that this provision of 18 U.S.C. 207(a)(2) has not been violated.

9. Gifts or Payment

No payments or gifts will be provided to the respondents. The respondents are only interested in obtaining a post-government employment letter. No payments or gifts are permitted to be given to ethics officials to provide the opinion letters.

10. Confidentiality

There is no attorney-client privilege applicable to the information an opinion requestor provides. The information provided is shared with authorized ethics officials responsible for providing the advice. Together with the advisory opinion provided the information is retained for five years from the date of the opinion and is protected under the Privacy Act of 1974. See section 847 of the National Defense Authorization Act for Fiscal Year 2008.

Information collection is retained under OGE/GOVT1, a system of records containing confidential financial disclosure reports, information necessary for the rendering of ethics, counseling, opinion, advice, and conflict of interest.
<http://dpcl.d.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570731/ogegovt-1/>

The form is considered part of the Office of Government Ethics system of records [http://www.ofr.gov/\(S\(woq5ojwh3pljsgyh3tx0zq3q\)\)/privacy/2011/oge.aspx#systems](http://www.ofr.gov/(S(woq5ojwh3pljsgyh3tx0zq3q))/privacy/2011/oge.aspx#systems), so, the SORN is the exact same SORN OGE advises to be used on its records.

11. Sensitive Questions

There are no sensitive questions asked in this information collection. No questions involve race, ethnicity or social security numbers.

12. Respondent Burden, and its Labor Costs

a. Estimation of Respondent Burden

Estimation of Respondent Burden Hours					
	Number of Respondents	Number of Responses per Respondent	Number of Total Annual Responses	Response Time (Amount of time needed to complete the collection instrument)	Respondent Burden Hours (Total Annual Responses multiplied by Response Time) Please compute these into hours)
Collection Instrument – DD Form 2945	250	1	250	1 Hour	250 Hours
Total	250	1	250	1 Hour	250 Hours

b. Labor Cost of Respondent Burden

Labor Cost of Respondent Burden					
	Number of Responses	Response Time per Response	Respondent Hourly Wage	Labor Burden per Response (Response Time multiplied by Respondent Hourly Wage)	Total Labor Burden (Number of Responses multiplied by Response Time multiplied by Respondent Hourly Wage)
Collection Instrument - DD Form 2945	250	1	\$84	\$84	\$21,000
Total	250	1	\$84	\$84	\$21,000

This estimate is based on the average annual number of requestors multiplied by an average user wage rate of \$84 per hour (equal to a mid-level Senior Executive Service (SES) salary).

13. Respondent Costs Other Than Burden Hour Costs

There are no annualized costs to the respondent other than the labor burden costs addressed in Item 12.

14. Cost to the Federal Government

Labor Cost to the Federal Government		
	Collection Instrument #1	Total
Number of Responses	250	250

Processing Time Per Response (in hours)	1	1
Hourly Wage of Worker(s) Processing Responses	\$95	\$95
Cost to Process Each Response (Processing Time Per Response multiplied by Hourly Wage of Worker(s) Processing Responses)	\$95	\$95
Total Cost to Process Responses (Cost to Process Each Response multiplied by Number of Responses)	\$23,750	\$23,750

Operational and Maintenance Costs						
Equipment	Printing	Postage	Software Purchases	Licensing Costs	Other	Total
\$244,000	0	0	0	0	0	\$244,000

Total Cost to the Federal Government		
Operational and Maintenance Costs	Labor Cost to the Federal Government	Total Cost (O&M Costs + Labor Cost)
\$244,000	\$24,000	\$268,000

15. Reasons for Change in Burden

The 60 minute completion per respondent is a rough average based on random interviews of requestors. Since this is a continuing requirement we have received 250 such opinion requests annually for a total annual burden of 250 hours. This number is based upon the number of requests received by DoD agencies during the current year to date.

16. Publication of Results

The results for collection of this information will not be published.

17. Non-Display of OMB Expiration Date

Omission of display of the expiration date of OMB approval is not being requested.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

No exceptions to the certification statement are being sought.