

of a specialized robot. After terminating Government service, the former Assistant Secretary approaches the contractor and suggests that she can convince her former DOD colleagues to pursue development of the prototype robot. The contractor agrees that the former Assistant Secretary's proposed efforts could be useful and asks her to set up a meeting with key DOD officials for the following week. Although the former Assistant Secretary is not an employee of the contractor, the circumstances establish that she is acting subject to some degree of control or direction by the contractor.

(h) *Particular matter involving a specific party or parties*— (1) *Basic concept*. The prohibition applies only to communications or appearances made in connection with a "particular matter involving a specific party or parties." Although "particular matter" is defined broadly to include "any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding," 18 U.S.C. 207(i)(3), such particular matters also must involve a specific party or parties in order to fall within the prohibition. These matters involve a specific activity or undertaking affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties, such as a specific contract, grant, license, product approval application, enforcement action, administrative adjudication, or court case.

*Example 1 to paragraph (h)(1)*: An employee of the Department of Housing and Urban Development approved a specific city's application for Federal assistance for a renewal project. After leaving Government service, she may not represent the city in relation to that application as it is a particular matter involving specific parties in which she participated personally and substantially as a Government employee.

*Example 2 to paragraph (h)(1)*: An attorney in the Department of Justice drafted provisions of a civil complaint that is filed in Federal court alleging violations of certain environmental laws by ABC Company. The attorney may not subsequently represent ABC before the Government in connection with the lawsuit, which is a particular matter involving specific parties.

*Example 3 to paragraph (h)(1)*: A former Government employee seeks to represent a foreign government before an agency in connection with certain issues arising under a bilateral treaty that he helped to negotiate as a Government employee. He may not do so, if it is determined that the matter with respect to which he seeks to represent the foreign government is the same matter in which he previously participated as a Government employee. Although bilateral treaties may involve the adoption of broad national policies that do not focus specifically on the rights of any one person or company within the United States, such matters do involve specific parties, namely

the United States and the foreign country, which are parties to a contract-like agreement. Note also that certain employees may be subject to additional restrictions with respect to trade and treaty negotiations or representation of a foreign entity, pursuant to 18 U.S.C. 207(b) and (f).

(2) *Matters of general applicability not covered*. Legislation or rulemaking of general applicability and the formulation of general policies, standards or objectives, or other matters of general applicability are not particular matters involving specific parties.

*Example 1 to paragraph (h)(2)*: A former employee of the Mine Safety and Health Administration (MSHA) participated personally and substantially in the development of a regulation establishing certain new occupational health and safety standards for mine workers. Because the regulation applies to the entire mining industry, it is a particular matter of general applicability, not a matter involving specific parties, and the former employee would not be prohibited from making post-employment representations to the Government in connection with this regulation.

*Example 2 to paragraph (h)(2)*: The former employee in the previous example also assisted MSHA in its defense of a lawsuit brought by a trade association challenging the same regulation. This lawsuit is a particular matter involving specific parties, and the former MSHA employee would be prohibited from representing the trade association or anyone else in connection with the case.

*Example 3 to paragraph (h)(2)*: An employee of the National Science Foundation formulated policies for a grant program for organizations nationwide to produce science education programs targeting elementary school age children. She is not prohibited from later representing a specific organization in connection with its application for assistance under the program.

*Example 4 to paragraph (h)(2)*: An employee in the legislative affairs office of the Immigration and Naturalization Service (INS) drafted official comments submitted to Congress with respect to a pending immigration reform bill. After leaving the Government, he contacts the White House on behalf of a private organization seeking to influence the administration to insist on certain amendments to the bill. This is not prohibited. Generally, legislation is not a particular matter involving specific parties. However, if the same employee had participated as an INS employee in formulating the agency's position on proposed private relief legislation granting citizenship to a specific individual, this matter would involve specific parties, and the employee would be prohibited from later making representational contacts in connection with this matter.

*Example 5 to paragraph (h)(2)*: An employee of the Food and Drug Administration (FDA) drafted a proposed rule requiring all manufacturers of a particular type of medical device to obtain

pre-market approval for their products. It was known at the time that only three or four manufacturers currently were marketing or developing such products. However, there was nothing to preclude other manufacturers from entering the market in the future. Moreover, the regulation on its face was not limited in application to those companies already known to be involved with this type of product at the time of promulgation. Because the proposed rule would apply to an open-ended class of manufacturers, not just specifically identified companies, it would not be a particular matter involving specific parties. After leaving Government, the former FDA employee would not be prohibited from representing a manufacturer in connection with the final rule or the application of the rule in any specific case.

*Example 6 to paragraph (h)(2)*: A former agency attorney participated in drafting a standard form contract and certain standard terms and clauses for use in all future contracts. The adoption of a standard form and language for all contracts is a matter of general applicability, not a particular matter involving specific parties. Therefore, the attorney would not be prohibited from representing another person in a dispute involving the application of one of the standard terms or clauses in a specific contract in which he did not participate as a Government employee.

(3) *Specific parties at all relevant times*. The particular matter must involve specific parties both at the time the individual participated as a Government employee and at the time the former employee makes the communication or appearance, although the parties need not be identical at both times.

*Example 1 to paragraph (h)(3)*: An employee of the Department of Defense (DOD) performed certain feasibility studies and other basic conceptual work for a possible innovation to a missile system. At the time she was involved in the matter, DOD had not identified any prospective contractors who might perform the work on the project. After she left Government, DOD issued a request for proposals to construct the new system, and she now seeks to represent one of the bidders in connection with this procurement. She may do so. 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 she participated in the project as a Government employee.

*Example 2 to paragraph (h)(3)*: A former employee in an agency inspector general's office conducted the first investigation of its kind concerning a particular fraudulent accounting practice by a grantee. This investigation resulted in a significant monetary recovery for the Government, as well as a settlement agreement in which the grantee agreed to use only certain specified accounting methods in the future. As a result of this case, the agency decided to issue a proposed rule expressly prohibiting the fraudulent accounting practice and requiring