



DEPARTMENT OF THE TREASURY
WASHINGTON

September 5, 2013

INSPECTOR GENERAL

The Honorable Carolyn N. Lerner
Special Counsel
U. S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: OSC File No. DI-13-2004

Dear Ms. Lerner:

By this letter, I am supplementing the inquiry conducted by my office and referred to you by former Deputy Secretary of the Treasury Neal Wolin earlier this year, regarding an allegation of deficient ethics and standards of conduct training by the Office of the Comptroller of the Currency (OCC). Specifically, the allegation was that OCC had failed to comply with a statutory and regulatory requirement to timely advise certain senior employees of their responsibilities under 18 U.S.C. Section 207(c)'s restrictions on their post-employment activity.

My office's inquiry concluded that the allegation was correct; that the stated deficiency had occurred, but that it was being corrected. As part of our follow-up, my Counsel contacted OCC's Chief Counsel to determine what subsequent actions were being taken or considered. OCC's response was:

We have taken several management actions in response to the report.

On June 7, 2013, the OCC headquarters ethics official disseminated via e-mail written notification of the 18 U.S.C. § 207(c) post-employment restrictions to all OCC employees currently covered by 18 U.S.C. § 207(c)(2)(A)(ii).

OCC Human Resources staff developed written procedures for identifying and disseminating the 18 U.S.C. § 207(c) notices to covered individuals when they first enter into their covered positions. These procedures require staffing specialists to include the written notification with the selection letter sent to covered individuals. In addition, the procedures provide for a managers' review of bi-weekly personnel reports to ensure that the appropriate notifications have been made. On June 14, 2013, the OCC Director for Employment and Policy Services, Human Resources, disseminated this written guidance and standard templates for including the 18 U.S.C. 207(c) notice in selection letters to all OCC Human Resources staffing specialists and assistants for immediate implementation.

OCC ethics officials continue to send out the standard written summary of the post - employment restrictions, which includes information on 18 U.S.C. 207(c) notices, to all departing employees. As an additional measure, beginning the week of June 18, 2013, OCC ethics officials started sending Treasury's standard 18 U.S.C. § 207(c) notice to all departing employees. Also, the OCC headquarters ethics official included guidance on the 18 U.S.C. § 207(c) restriction in ethics audio conferences offered on June 13, July 11, and August 8, 2013, as part of a mandatory annual ethics training program for all OCC employees.

We have not taken and do not intend to take any personal actions. We have reviewed the matter and have concluded that personnel actions would not be appropriate given the circumstances.

The June 7, 2013 OCC email is Attachment 7 to our original report. The June 14 guidance from OCC's Human Resources director is enclosed with this letter. We are satisfied that it provides the guidance necessary for compliance with the Section 207(c) notice requirement.

With this additional information, I believe that the concerns and deficiencies at issue here are all adequately addressed and ameliorated. My office will monitor OCC's practice in this area.

Please call me on (202) 622-1090 if you would like to discuss this matter, or your staff may contact Counsel to the Inspector General Rich Delmar on (202) 927-3973.

Sincerely,

A handwritten signature in black ink, appearing to read 'EMT', with a long horizontal flourish extending to the right.

Eric M. Thorson
Inspector General

Enclosure

**Notification of Post-Employment Restrictions
for Existing Employees**

HRP 13-01

Step	Action
1	<p>Staffing Specialist receives notification of request to effect a pay-impacting action on a current employee.</p> <p>If the pay-impacting action will take the employee's base salary to, over or below \$155,441 (for 2013), go to Step 2.</p> <p>If the pay-impacting action will NOT take the employee's base salary to, over or below \$155,441 (for 2013) go to Step 3.</p>
2	<p>Staffing Specialist e-mails affected employee the <u>Congratulations letter with embedded post-employment restrictions notice</u>, and copies Jennifer Dickey and the Service Center Manager.</p>
3	<p>Staffing Specialist prepares appropriate paperwork for processing in accordance with service center procedures.</p>
4	<p>Action is processed.</p>
5	<p>HRTPI runs a report each pay period of actions that have resulted in changes in employees' pay and provides to both Service Center Managers. Report is sorted by SDC level and includes employee name, type of action that resulted in the salary change, effective date of action, and from/to base salary, budget code and duty location.</p>
6	<p>Service Center Manager reviews the report (from Step 5) in conjunction with e-mail distribution to ensure impacted employees have received the notification.</p> <p>If all employees received the appropriate notification, go to Step 8.</p> <p>If one or more employees did not receive the appropriate notification, go to Step 7.</p>
7	<p>Service Center Manager notifies the appropriate Staffing Specialist to e-mail affected employee the <u>Congratulations letter with the embedded</u></p>

	<u>post-employment restrictions notice</u> , and copy Jennifer Dickey and the Service Center Manager.
8	STOP

For merits and special increases, HRTPI will provide Director for Employment Policy and Services (EPS) a list of affected employees and the Director for EPS will send out notifications.



Date

Name

Subject: Selection Letter

Dear Name:

Congratulations! You have been selected for the position of [Title of position], NB-0570-[band level], from vacancy announcement number MP-DSC-[xx]-[xxx]. The effective date of your new assignment is XXXXXXXX.

Your new position is located in the [Name of District] District Office [or field office] in [city, state]. Tailor: Your new position, located in the XXXX Field Office, is a 3-year rotational assignment with the option of two 1-year extensions at the Deputy Comptroller's discretion. Upon promotion, you will receive a 10% [6% if promotion from NB-V Step 2 to NB-VI] increase to your annual base salary, along with a [X] % geographic pay differential. OR Upon reassignment, your annual base salary will remain the same, and you will [continue to] receive a [X] % geographic pay differential. OR Upon reassignment to this Step 2 position, you will receive a 6% increase to your annual salary, along with a [X]% geographic pay differential.

If 5% increase if lateral from non-LB city to LB city, include:

This is a lateral reassignment from a non-Large Bank city to a Large Bank city; therefore, you will receive a 5% increase to your base salary in accordance with CBS Staffing Incentives/Flexibilities. The geographic pay differential for XXXXX is XX%.

When relocation benefits have been authorized, include the following paragraph:

You have been approved for relocation benefits. OCC's relocation management firm, Brookfield Relocation, is available to provide you with pre transfer counseling and information about your new area. For pre-transfer counseling, please contact Brookfield Relocation, at 1-877-237-5068.

Insert the following paragraph if base salary will be \$155,441 or higher for 2013:

You have been selected for a position, which based on the pay level, would make you a "senior employee" for the purpose of the post-employment restriction of 18 U.S.C. 207(c). Violations of this criminal law may result in significant penalties. Please read the attached notice, which provides more information about the post-employment restrictions that apply to you pursuant to 18 U.S.C. 207(c).



SJ SAMPLE Current
Employee MP Selecti

If the employee is moving from the Competitive to the Excepted service, include the following paragraph:

In your new position, you will be moving from the competitive to the excepted service. Please sign and date the attached statement confirming you understand you are leaving the competitive service voluntarily to accept an appointment in the excepted service. Please return your completed form to me at:

Comptroller of the Currency
HR District Service Center
1225 17th St, Suite 475
Denver, CO 80202
Attn: Sharon Johnson



Template Excepted
Service Conditions of

If the employee is moving from the Excepted to the Competitive service into a career-conditional appointment, include the following paragraph:

In your new position, you will be moving from the excepted to the competitive service. You will be placed on a career-conditional appointment and will be required to serve a new one-year probationary period. After serving three continuous years under a career-conditional appointment, you will automatically be converted to a career appointment.

If the employee is moving from the Excepted to the Competitive service and already has career status, include the following paragraph:

In your new position, you will be moving from the excepted to the competitive service. Our records show that you have already acquired career status in the competitive service.

If the employee is moving into a supervisory position, include the following paragraph:

This is a supervisory position. You are required to serve a one-year supervisory probationary period if you have not done so in the past.

Best wishes to you in your new position!

If you have any questions regarding this letter, please do not hesitate to contact me at 720-475-7543.

Sincerely,

Sharon Johnson

Sharon Johnson
Human Resources Specialist
Office of Human Resources

Cc: Hiring Manager

Jen Dickey, HQ Ethics Counsel (only if salary is \$155, 441 or higher for 2013)
Service Center Manager (only if salary is \$155, 441 or higher for 2013)



Date

Name

Subject: Selection Letter

Dear Name:

OPM regulations at 5 CFR 730 require agencies to provide written notification to employees who are subject to the post-employment conflict of interest restrictions at 18 U.S.C. 207(c) whenever a personnel action occurs that affects their coverage. This is to notify you that you have been selected for a position, which based on the pay level, would make you a "senior employee" for the purpose of the post-employment restriction of 18 U.S.C. 207(c). A "senior employee" for these purposes is someone who occupies a position for which the rate of basic pay is equal to or greater than 86.5% of the rate for level II of the Executive Schedule, i.e., greater than or equal to \$155,441 for 2013.

The post-employment restrictions at 18 U.S.C. 207(c) require that for one year after service in a "senior" position ends, no former "senior employee" may knowingly make, with the intent to influence, any communication to or appearance before an employee of a department or agency in which he or she served in any capacity during the one-year period prior to ending service in that "senior" position, if that communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which he or she seeks official action by that employee. These post-employment restrictions will apply to you for one year after your service in a "senior" position as defined above ends.

"Senior employees" are also subject to the post-employment restrictions at 18 U.S.C. 207(f). This section provides that, for one year after service in a "senior" position ends, no former "senior employee" may knowingly, with the intent to influence a decision of an employee of a department or agency of the United States or any member of Congress in carrying out his or her official duties, represent a foreign entity before any department or agency of the United States or any member of Congress or aid or advise a foreign entity.

Penalties and injunctions for violating the post-employment restrictions are prescribed at 18 U.S.C. 216 (a), (b), and (c). They include:

- Imprisonment and/or fine: For engaging in conduct constituting an offense, imprisonment for not more than one year, a fine of not more than \$100,000, or both; for willfully

engaging in conduct constituting an offense, imprisonment for not more than five years, a fine of not more than \$250,000, or both.

- **Civil Action:** The Attorney General may bring a civil action in the appropriate U.S. district court against any person who engages in conduct constituting an offense and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.
- **Injunction:** If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense, the Attorney General may petition for and the appropriate U.S. district court may issue an order prohibiting that person from engaging in such conduct. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

If you have any questions about the post-employment restrictions and how they apply to you, please contact Jen Dickey, OCC headquarters ethics counsel, at (202) 649-5584, your OCC Ethics Official. Contact information for your OCC ethics official is available on the Ethics Page on the OCCnet at <http://occnet.occ/ethicsguidance.asp>. On this page you will also find ethics guidance on the post-employment restrictions under the heading for Departing Employees. Additional information on the post-employment restrictions is also available at http://intranet.treas.gov/ethics/employment/post_employment.asp.

cc: Bureau Ethics HQ Ethics Counsel Official

Sincerely,

Signature

Name
Human Resources Specialist

cc: Manager
Bureau Ethics HQ Ethics Counsel Official
Service Center Manager

Delmar, Richard K.

From: Library of Congress <loc@service.govdelivery.com>
Sent: Wednesday, September 04, 2013 5:13 PM
To: Delmar, Richard K.
Subject: Upcoming Event: Constitution Day

You are subscribed to Law Library News & Events for Library of Congress. This information has recently been updated, and is now available.

Upcoming Event: Constitution Day

The Law Library of Congress will host Professor Risa L. Goluboff in a celebration of Constitution Day 2013. The title of Professor Goluboff's lecture is "How the Constitution Changes: Social and Political Aspects of the Law." This program is part of the Law Library's annual celebration of Constitution Day and Citizenship Day—a federal holiday that is observed each year to commemorate the signing of the U.S. Constitution on Sept. 17, 1787, and to "recognize all who, by coming of age or by naturalization, have become citizens."

Date: Tuesday, September 17, 2013

Time: 1:00 p.m.

Place: Library of Congress, James Madison Memorial Building, Montpelier Room (6th Floor, Yellow Corridor), 101 Independence Ave, SE Washington, DC 20540

The event is free and open to the public.

Professor Risa L. Goluboff will discuss how changes in constitutional interpretation occur over time. Professor Goluboff will describe how social movements, judges, lawyers, legislators, administrators, and community pressure all contribute to new understandings of the Constitution. To illustrate these forces, Professor Goluboff will draw from her current book project on the changing constitutional status of vagrancy laws in the 1960s and 1970s as part of the social transformations of that era.



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