

Office of Government Ethics

81 x 32 -- 10/27/81

Letter to a Corporation Counsel dated October 27, 1981

This is a follow-up to your letter of October 8, 1981 and telephone conversations between you and [a member of my staff].

You have informed us that you intend to employ [a Government employee] for a period of approximately nine months and that [the employee] would be on leave-without-pay status from [an agency] during that time. We understand that [the employee], a GS-15 budget examiner for [the agency], arranged for this employment with [your corporation] himself and not through any Government program. It has also been represented to us that [the agency] approves of this arrangement. You have asked whether any problems are presented, particularly with regard to 18 U.S.C. § 209.

In the absence of any conflict of interest between the type of work [the employee] does with [the agency] and that which he would perform for your company, [the employee] can take on the employment with your company. 18 U.S.C. § 209 prohibits private compensation to a Government employee as a contribution to his Federal salary. This is not this situation. [The employee] would be on leave of absence without pay and would not be performing work during that period for the Federal Government. The other benefits you would grant him, such as reimbursement for relocation travel and moving expenses and payment for your medical insurance plan, would not be prohibited because they would specifically relate to his private employment [with your corporation] and not to any governmental work. For the same reason, it would also be appropriate for you to pay his actual travel and living expenses while he would be on business trips for your company.

[The employee] should be informed that he remains subject to the standards of conduct governing Government employees even while on leave of absence. These are found in Executive Order 11222 as implemented by 5 C.F.R. Part 735 and the ethics regulations of OMB. Additionally, he should be aware that his actions are subject to Chapter 11 of Title 18 of the United States Code, in particular sections 203, 205 and 208. He could not, for example, represent any person in any matter before the

United States Government during his leave of absence.

I trust we have been of assistance.

Sincerely,

J. Jackson Walter
Director