

Figure 1. Sample MOA Template

MEMORANDUM OF AGREEMENT
AMONG THE [FIRST PARTY (AND ACRONYM)],
THE [SECOND PARTY (AND ACRONYM)],
AND
NAME OF DoD OR PRIVATE SECTOR EMPLOYEE] (“PARTICIPANT”)
FOR THE
PUBLIC-PRIVATE TALENT EXCHANGE PROGRAM

This is a Memorandum of Agreement (MOA) among the [first party], a Department of Defense (DoD) Component; the [second party], a private-sector organization; and the participant. When referred to collectively, the [first party], the [second party], and the participant are referred to as the “Parties.”

1. AUTHORITY: Section 1599g of title 10, United States Code (U.S.C.).

2. RESPONSIBILITIES OF THE PARTIES:

2.1. PUBLIC-PRIVATE TALENT EXCHANGE (PPTE) REQUIREMENTS:

2.1.1. DoD Employees/Participants:

2.1.1.1. Will be considered to be on detail during the period of assignment. Federal assignees continue to encumber the positions they occupied prior to the assignment, and such positions are subject to any personnel actions that might normally occur. While detailed to private-sector organizations, DoD employees remain Federal employees without loss of associated employment rights and benefits including, but not limited to: consideration for promotions; leave accrual; continuation of retirement benefits and health, life, and long-term care insurance benefits; and pay increases employees otherwise would have received if they had not been detailed. During the assignment, employees will continue to receive pay and benefits from their employing DoD organizations and will not receive pay or benefits from the private-sector organizations.

2.1.1.2. Shall, upon completion of the assignment, be placed in the respective positions they held immediately before the assignment or in similar positions. A similar position is one:

- In the same DoD Component;
- In the same geographic area;
- With the same rights and benefits; and
- In a grade equal to the grade of the position which he or she held immediately before the PPTE assignment.

2.1.1.3. Must complete either a Confidential or Public Financial Disclosure Report, whichever applies; a continued service obligation agreement; ethics training in accordance with the Office of Government Ethics regulations; and all other applicable training requirements prior to the implementation of the MOA.

Figure 1. Sample MOA Template, Continued

2.1.1.4. Will not improperly use or disclose any non-public information, to include any pre-decisional or draft deliberative information that to which such employees may be privy or of which such employees may be aware, related to DoD programming, budgeting, resourcing, acquisition, procurement, or other matters for the benefit or advantage of the employees or any non-Federal entities, to include the private-sector organizations. Employees/participants will handle all non-public information in a manner that reduces the possibility of improper disclosure.

2.1.1.5. Will not work on particular matters involving the private-sector organizations in which they participated personally and substantially in their government positions, and will not represent or appear on behalf of any non-Federal entities, to include the private-sector organizations before any Executive or Judicial branch officials in any matters in which the U.S. is a party or has an interest.

2.1.1.6. Will not disclose to such private-sector entities any information that would be covered by the Privacy Act; the Trade Secrets Act, section 1905 of title 18, U.S.C.; or the Procurement Integrity Act, section 2102 of title 41, U.S.C.

2.1.1.7. Upon completion of the PPTE assignment, will serve in the DoD for a period equal to twice the length of the assignment or, with advance written approval officials described in paragraph 1.b. of the DoD PPTE implementation procedures, will serve elsewhere in the Federal civil service for a period equal to twice the length of their assignments.

2.1.1.8. Will be liable to DoD for payment of all expenses of the assignment unless the Head of the DoD Component concerned determines that failure to carry out the terms of the MOA is for a good and sufficient reason.

2.1.2. Private-Sector Employees/Participants:

2.1.2.1. Must have the knowledge, skills, and abilities to be considered subject matter experts in their occupational field.

2.1.2.2. Must meet the definition of high-performing employees in accordance with the employing organizations' performance standards.

2.1.2.3. Must successfully obtain the same level of background investigation and the same type(s) of adjudication required to perform the duties of the assignment through the duration of their participation in the PPTE.

2.1.2.4. Will continue to receive pay and benefits from the private-sector organizations from which such employees are assigned and will not receive pay or benefits from the DoD.

2.1.2.5. Are deemed employees of the DoD for the purposes of:

- Chapters 73 and 81 of title 5, U.S.C.;
- Sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905,

Figure 1. Sample MOA Template, Continued

and 1913 of title 18, U.S.C.;

- Sections 1343, 1344, and 1349(b) of title 31, U.S.C.;
- The Federal Tort Claims Act and any other Federal tort liability statute;
- The Ethics in Government Act of 1978; and
- Chapter 21 of title 41, U.S.C.

2.1.2.6. Must complete either Confidential or Public Financial Disclosure Reports, whichever apply; disqualification statements prohibiting them from working on matters related to their private-sector organization; and ethics training in accordance with Office of Government Ethics regulations prior to the implementation of the MOA.

2.1.2.7. Will not improperly use or disclose any non-public information, to include any pre-decisional or draft deliberative information to which such employees may be privy or of which such employees may be aware, related to DoD programming, budgeting, resourcing, acquisition, procurement, or other matter, for the benefit or advantage of the employees or any non-Federal entities, to include the private-sector organization employers. Employees/participants will handle all non-public information in a manner that reduces the possibility of improper disclosure.

2.1.2.8. Will not work on particular matters involving their private-sector employers or any entities represented by their private-sector employers, and will not represent or appear on behalf of any non-Federal entities, to include their private-sector employers, before any Executive or Judicial branch official in any matter in which the U.S. is a party or has an interest.

2.1.2.9. Will not disclose to private-sector entities any information that would be covered by the Privacy Act; the Trade Secrets Act, section 1905 of title 18, U.S.C.; or the Procurement Integrity Act, section 2102 of title 41, U.S.C.

2.1.2.10. Must receive post-government employment advice from a DoD ethics counselor at the conclusion of the PPTE. Private-sector employees participating in the exchange are deemed Federal employees for purposes of post-government employment restrictions.

2.1.2.11. Must be U.S. citizens.

2.1.2.12. May not supervise DoD employees. This includes, but is not limited to, restrictions on evaluating performance, approving time and attendance, granting awards, or executing disciplinary actions.

2.1.2.13. Will not receive pay and benefits from the DoD and shall continue to receive pay and benefits from their private-sector organization.

2.1.2.14. Will not be authorized access to any trade secrets or to any other non-public information that may be of commercial value to private-sector organizations from which the employees are assigned.

Figure 1. Sample MOA Template, Continued

2.1.2.15. May not perform work that is considered inherently governmental in nature.

2.1.2.16. Will be liable to DoD for payment of all expenses of the assignment unless the Head of the DoD Component concerned determines that failure to carry out the terms of the MOA is for a good and sufficient reason.

2.1.2. Private-sector organizations may not charge the Department or any other agency of the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an individual assigned to a DoD organization under a PPTE for the period of the assignment.

2.1.3. DoD Components will ensure that supervisors of record of DoD employees seek input from their supervisors in the private-sector organizations to which they are assigned for use in developing performance plans, conducting progress reviews, and completing ratings of record for performance evaluation purposes.

2.2. DUTIES: A description of duties for the duration of the assignment and a brief statement of how the goals of the assignment will be achieved are attached.

3. GENERAL PROVISIONS:

3.1. PARTICIPANT: This agreement covers the below participant who will be assigned on a non-reimbursable basis for a period of [insert duration of assignment]. This assignment may be extended upon mutual consent of the parties.

3.1.1. Position Pay Plan, Occupational Series, and Grade (for current DoD employees):

3.1.2. Position Title:

3.1.3. Appointment Type (for current DoD employees):

3.1.4. Date of employment with the current organization (for private-sector employees):

3.1.5. Salary:

3.2. POINTS OF CONTACT: The following points of contact (POC) will be used by the Parties to communicate in the implementation of this MOA. Each Party may change its POC upon reasonable notice to the other Party.

3.2.1. For the [DoD Component]—

3.2.1.1. Position and phone number of Primary POC:

3.2.1.2. Position and phone number of Alternate POC:

3.2.2. For the [Private-sector organization]—

Figure 1. Sample MOA Template, Continued

3.2.2.1. Position and phone number of Primary POC

3.2.2.2. Position and phone number of Alternate POC:

3.3. CORRESPONDENCE: All correspondence to be sent and notices to be given pursuant to this MOA will be addressed, if to the [DoD Component], to—

3.3.1. [insert mailing address and e-mail address] and, if to the [private-sector organization], to—

3.3.2. [insert mailing address and e-mail address] and, if to the [participant], to—

3.3.3. [insert mailing address and e-mail address]

3.4. ADMINISTRATIVE:

3.4.1. Time and Attendance: The participant's time and attendance records will be maintained by the parent organization/agency. The participant will submit his/her time and attendance report on a timely basis (as determined by the parent organization/agency).

3.4.2. Security: The participant may be required to hold a security clearance, depending on the nature of the assignment. The sponsoring organization/agency is responsible for determining the appropriate level of clearance.

3.4.3. Training and Travel Expenses: The host organization/agency may pay for any business training and travel expenses incurred by the participant while participating in the program. The participant shall provide vouchers and supporting receipts to the receiving organization for review and approval.

3.4.4. Financial/Pay: The DoD Component or private-sector organization is responsible for all costs of its personnel, including pay and benefits, support, and travel. The participant's parent organization/agency will continue to process salary payments and/or awards in accordance with his/her respective policies and procedures.

3.4.5. Supervision and Performance: The DoD Component or private-sector organization is responsible for supervision and management of its personnel. [For shared supervision or management, explain the process to accomplish that.] Participants must maintain a fully successful performance level or above (if applicable) to participate in PPTE. Either of the parties may recommend withdrawal of a participant whose progress or conduct proves unsatisfactory.

3.5. REVIEW OF AGREEMENT: This MOA will be reviewed annually on or around the anniversary of its effective date for financial impacts and accuracy.

3.6. MODIFICATION OF AGREEMENT: This MOA may only be modified by the written agreement of the Parties, and duly signed.

3.7. TERMINATION OF AGREEMENT: This MOA may be terminated by either

Figure 1. Sample MOA Template, Continued

the DoD Component or the private-sector organization by giving at least 30 days' written notice where possible. The MOA may also be terminated at any time upon the mutual written consent of the DoD Component and the private-sector organization.

3.8. ENTIRE AGREEMENT: It is expressly understood and agreed that this MOA embodies the entire agreement between the Parties regarding the MOA's subject matter.

3.9. EFFECTIVE DATE: This MOA takes effect the day after it is signed by all parties.

3.10. EXPIRATION DATE: This Agreement expires on_____. [insert a date] If the assignment is extended, a new agreement must be executed.

3.11. CANCELLATION OF PREVIOUS AGREEMENT: This MOA cancels and supersedes any previously signed agreements between the same parties with the subject_____and effective date of_____. [Use only when needed to cancel a previous agreement]

AGREED: [Parties' signatures will never be alone on a blank page]

Figure 1. Sample MOA Template, Continued

DOD COMPONENT

PRIVATE SECTOR ORGANIZATION

Printed Name: _____

Printed Name: _____

Signature: _____

Signature: _____

Organization: _____

Organization: _____

Title: _____

Title: _____

Date: _____

Date: _____

PARTICIPANT

Printed Name: _____

Signature: _____

Organization: _____

Title: _____

Date: _____