

## HIRING AND RETAINING CURRENT AND FORMER GOVERNMENT OFFICIALS AND THEIR RELATIVES

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## A. SUMMARY

United Technologies Corporation's discussions with and offers to current and former government officials and their relatives regarding their hire or retention as employees or vendors shall comply with anti-corruption, revolving door, and related laws and regulations. The purpose of these laws and regulations is to prevent such officials from being improperly influenced. Violations may lead to severe penalties for the government official and UTC, including criminal and civil sanctions and debarment.

## B. APPLICABILITY

This Policy applies to United Technologies Corporation, its **Business Units**, subsidiaries, divisions, and other controlled business entities and operations ("**Operating Units**"), and all directors, officers, and employees thereof, worldwide (collectively, "**UTC**"). This Policy replaces [CPM 10: Hiring Current or Former Officers and Employees of the U.S. Government](#).

## C. DEFINITIONS

"**Corporate**" means the corporate office and "**Business Unit**" or "**BU**" means Otis Elevator Company, Pratt & Whitney, UTC Aerospace Systems, UTC Climate, Controls & Security, and United Technologies Research Center. Other **Bold** terms are defined in [Exhibit 1](#).

## D. POLICY

1. Consistent with applicable employment, labor, and privacy laws, **Operating Units** shall screen all applicants for **Employment** as **UTC** employees or as **Individual Service Vendors** to identify those who are current or former **Government Officials** or **Related Parties** of current **Government Officials**.
2. No offer of **Employment** as a **UTC** employee or as **Individual Service Vendor** shall be made to a current **Government Official**, or a **Related Party** of a current **Government Official**, if doing so would constitute a **Corrupt Payment** or create the appearance thereof.
3. **Operating Units** shall obtain clearance pursuant to [Exhibit 2](#) before discussing with a current **U.S. Federal Government Employee** the possibility of **Employment** as a **UTC** employee or as an **Individual Service Vendor**.
4. **Operating Units** shall obtain clearance pursuant to [Exhibit 2](#) before making offers of **Employment** as a **UTC** employee or as an **Individual Service Vendor** to a current **Government Official**, a **Related Party** of a current **Government Official**, and certain former **Government Officials**.
5. In lieu of conducting anti-corruption and revolving door screening pursuant to this Policy, **Operating Units** shall obtain representations and warranties from **Service Vendors** other than **Individual Service Vendors** regarding their compliance with applicable anti-corruption and revolving door laws and regulations. (see [CPM 17: Service Vendors](#); [CPM 48D: Lobbyists](#); and [CPM 48E: Distributors and Non-Employee Sales Representatives](#)).

## E. PROCEDURES

See [Exhibit 2](#).

**EXHIBIT 1: DEFINITIONS**

**Affiliate** means an **Entity**:

- that exercises **Control** over the referenced **Entity**; or
- over which the referenced **Entity** exercises **Control**; or
- that, together with the referenced **Entity**, is under common control of another **Entity**.

**Consultant(s)** is defined in [CPM 17: Service Vendors](#).

**Control** means the power, directly or indirectly, to:

- vote more than 50% of an **Entity's** securities having voting power to appoint members of the **Entity's** governance body; or
- direct or cause the direction of an **Entity's** day-to-day business decisions and policies, whether through the ownership of voting securities, by contract, or otherwise.

**Corrupt Payment** is defined in [CPM 48: Anti-Corruption](#).

**Distributor(s)** is defined in [CPM 48E: Distributors and Non-Employee Sales Representatives](#).

**Employment** means the hire or retention of an individual as a:

- **UTC** employee (including, without limitation, as a full-time, part-time, temporary, leased employee, or intern, whether or not compensated);
- **Vendor** (including, without limitation, as a **Consultant, Distributor, Lobbyist, Non-Employee Sales Representative** (including those furnishing **U.S. Government Marketing** or **U.S. Government Sales**) or other **Service Vendor**); or
- employee or contractor of a **Vendor** who will:
  - be hired or retained by the **Vendor** at the request of **UTC**; or
  - who will provide services related to **UTC** business or affairs.

**Entity** means any corporation, limited liability company, partnership, sole proprietorship, trust, or similar entity, or other organization, whether or not "for-profit."

**Government Aviation Authority (GAA)** is defined in [CPM 48B: Sponsoring Third Party Travel](#).

**Government** means any:

- government, U.S. or non-U.S., whether at the national, regional, local, or municipal level;
- **Government Aviation Authority (GAA)**;
- airline owned or operated by a government;
- **Entity** acting in an official capacity on behalf of a government;
- airline owned or operated by a government;
- **Entity**, company, or business in which a government exerts **Control**;
- political party;
- public international organization (e.g., United Nations, World Bank, World Trade Organization, International Civil Aviation Organization, etc.); or
- department, agency, subdivision, or instrumentality of any of the foregoing.

**High-Level U.S. Federal Government Employee** means any **U.S. Federal Government Employee** who is/was a:

- military officer of flag rank (O-7 and above);
- political appointee (regardless of salary level); or

- other senior official (including appointed or career Senior Executive Service (“SES”) official) compensated at rate consistent with pay levels V-I of the Executive Schedule.<sup>1</sup>

**Individual Service Vendors** means a **Service Vendor** in which a single individual exerts **Control** or furnishes the **Services** offered or provided (e.g., sole proprietorship or single-member corporation, limited liability company, partnership, or similar organization).

**Lobbyist(s)** is defined in [CPM 48D: Lobbyists](#).

**Non-Employee Sales Representative(s)** or **NSR** is defined in [CPM 48E: Distributors and Non-Employee Sales Representatives](#).

**Related Party** means, with regard to:

- an individual, an immediate or extended family member of such individual including, without limitation, parents, siblings, spouses, uncles, aunts, nephews, and nieces;
- an **Entity**, an **Affiliate** of such **Entity**.

**Service(s)** is defined in [CPM 17: Service Vendors](#).

**Third Party** means, with regard to:

- an individual, any individual that is not an employee of **UTC** or any **Affiliate** of **UTC**;
- an **Entity**, any **Entity** that is not **UTC** or an **Affiliate** of **UTC** (for clarity, for the purposes of this Policy, **UTC** joint venture partners and **Vendors**, and their respective **Affiliates**, are **Third Parties**).

**U.S. Federal Government Employee** means any:

- enlisted person of the armed forces of the U.S. federal **Government**;
- officer of the armed forces of the U.S. federal **Government**; or
- officer or employee (elected or appointed, full or part-time, whether or not compensated) of the executive or legislative branches of the U.S. federal **Government** including ,without limitation:
  - special government employees;
  - members of federal advisory committees;
  - elected officers of Congress;
  - current/former members of Congress;
  - personal staff of a member of Congress;
  - employees of committees of Congress; or
  - employees of other legislative offices including, without limitation:
    - Congressional Budget Office;
    - General Accounting Office; or
    - Office of Technology Assessment;

but excluding clerical, secretarial, or other similarly-graded employees.

**U.S. Government Marketing** is defined in [CPM 48E: Distributors and Non-Employee Sales Representatives](#).

**U.S. Government Sales** is defined in [CPM 48E: Distributors and Non-Employee Sales Representatives](#).

**Vendor** means any existing or prospective **Third Party** contractor or supplier of materials or services to **UTC**.

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<sup>1</sup> The U.S. Office of Personnel Management publishes [salary tables](#). For CYs2013-14, Executive Schedule pay rates range from \$147,200 for Level V to \$201,700 for Level 1. The President has announced his intention to adjust these amounts sometime in 2014.

**EXHIBIT 2: PROCEDURES AND REQUIREMENTS****A. COMPLIANCE WITH ANTI-CORRUPTION LAWS AND REGULATIONS**

1. Anti-corruption laws and regulations prohibit offering or providing **Employment** if doing so would constitute a **Corrupt Payment**.
2. Before making an offer of **Employment**, **Operating Units** shall refer to legal counsel applicants for hire as **UTC** employees or retention as **Individual Service Vendors** who are identified through screening as current **Government Officials**, or **Related Parties** of current **Government Officials**.
3. Legal counsel shall review the applicant and circumstances of the proposed **Employment** and advise in writing whether the **Operating Unit** may proceed with an offer. If the offer, hire, or retention would constitute or create the appearance of a **Corrupt Payment**, the **Operating Unit** shall not proceed. Generally, in addition to a categorical prohibition against quid-pro-quo arrangements, **Operating Units** are strongly cautioned against offering **Employment** if submitting, or within 12 months of the proposed offer/hire/retention will be submitting, a bid for the sale of **UTC** products or services or an application for incentives or other regulatory action (e.g., permits, clearances, etc.) or forbearance, in each case over which the applicant or **Related Party** of the applicant has advisory or decision-making authority and has not been expressly/officially recused. If the bid or application date is indeterminate (i.e., beyond 12 month period), or a **BU** other than the **Operating Unit** submitting the current or prospective bid or application is proposing to hire or retain the applicant, the applicant may be considered, provided that the applicant must: (a) complete the application process applicable to the proposed position;<sup>2</sup> (b) be qualified for/meet the minimum stated requirements (e.g., education, experience, skills, knowledge, etc.) of the proposed position;<sup>3</sup> and (c) be interviewed.
4. Applicants identified as current or certain former **U.S. Federal Government Employees**, or as current or former U.S. state/local and non-U.S. **Government Officials** confirmed or believed to be subject to revolving door or similar restrictions, shall be subject to additional approvals pursuant to Sections B and C below.

**B. COMPLIANCE WITH U.S. FEDERAL GOVERNMENT REVOLVING DOOR REQUIREMENTS**

1. U.S. federal **Government** laws and regulations (see [Enclosure 1](#)) prohibit or restrict **Employment** of certain current and former **U.S. Federal Government Employees** and, in some cases, prohibit even preliminary discussions. The purpose of these so-called “revolving door” restrictions is to prevent **U.S. Federal Government Employees** from being improperly influenced. Violations can lead to severe penalties for the **U.S. Federal Government Employees** and the hiring or retaining firm, including criminal and civil sanctions and debarment.
2. Before undertaking discussions with the applicant or further processing the application, **Operating Units** shall refer for revolving door review applicants for hire as **UTC** employees or retention as **Individual Service Vendors** who are identified through screening as current or former **U.S. Federal Government Employees**.
3. A designated manager in Human Resources (for prospective **UTC** employees) or the procuring organization (for prospective **Individual Service Vendors**) shall provide the applicant (or the applicant's

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<sup>2</sup> For internships, the **Operating Unit** hiring the applicant must have an established internship or hiring program.

<sup>3</sup> Internship applicants must be qualified for the established internship program, possess at least a B grade average overall or in the applicant's major field of study, and have demonstrated an interest in a field that is relevant to **UTC** business (e.g., engineering, technology, sales, business management, or one of the **UTC** support functions).

search firm if applicable) a letter and questionnaire substantially similar to [Enclosure 2](#) and provide a copy of the letter and completed questionnaire to legal counsel/designee.

4. Legal counsel/designee shall review the completed questionnaire (and any required opinion)<sup>4</sup> and advise in writing (in one or more steps as necessary) if the **Operating Unit** may discuss the possibility of **Employment** with and make an offer of **Employment** to the applicant, and whether any restrictions apply. Legal counsel/designee must exercise care in determining the nature and duration of restrictions applicable to a **U.S. Federal Government Employee** as the statutes apply only to certain classes of officers and employees and, even if a former **U.S. Federal Government Employee** is outside the 3/5 year review period, must ensure that the potential employee or **Individual Service Vendors** does not have any lifetime prohibitions. (see [Enclosure 1](#)). Finally, in addition to “revolving door” restrictions, the Office of Federal Procurement Policy Act (as amended), 41 U.S.C. §423, prohibits current and former **U.S. Federal Government Employees** from wrongfully disclosing certain procurement information of the U.S. federal **Government** and competing contractors. **UTC's Procurement Integrity procedures** should be consulted during the review of questionnaires to ensure that no information will be wrongfully solicited from or disclosed by the former **U.S. Federal Government Employee** during the hiring/retainer process or during his/her tenure with the company as a **UTC employee** or **Individual Service Vendor**.
5. **Operating Units** must receive the following written clearance before proceeding:

ACTION	TYPE / STATUS OF U.S. FEDERAL GOVERNMENT EMPLOYEE	WRITTEN CLEARANCE REQUIRED
Preliminary Discussions	Any former	None
	Any current	<b>Operating Unit</b> legal counsel
Offer	1. Former, was enlisted person with no procurement responsibilities	None
	2. Former, was enlisted person with procurement responsibilities, and > 3 years since termination date	None
	3. Former, other than 1, 2, or <b>High-Level U.S. Federal Government Employee</b> , and ≤ 3 years since termination date	<b>Operating Unit</b> legal counsel /designee
	4. Former, was <b>High-Level U.S. Federal Government Employee</b> , and > 5 years since termination date	<b>Operating Unit</b> legal counsel /designee
	5. Former, was <b>High-Level U.S. Federal Government Employee</b> , and ≤ 5 years since termination date	<b>Operating Unit</b> legal counsel; <i>and</i> UTC CVP, Global Ethics and Compliance
	6. Current, is not <b>High-Level U.S. Federal Government Employee</b>	<b>Operating Unit</b> legal counsel
	7. Current, is <b>High-Level U.S. Federal Government Employee</b>	<b>Operating Unit</b> legal counsel; <i>and</i> UTC CVP, Global Ethics and Compliance

6. Because approval to offer **Employment** to a **U.S. Federal Government Employee** may depend on duties intended to be performed for **UTC**, Human Resources periodically will remind **UTC** employees who left **U.S. federal Government** service within the preceding three years (or who may have lifetime restrictions for certain matters potentially within their areas of responsibility) of the continuing need to review job responsibilities as they change. An acknowledgement comparable in form and content to [Enclosure 3](#) should be sent to the **U.S. Federal Government Employee** before his or her **UTC** hire date.

<sup>4</sup> In addition to internal **UTC** processing, Section 847 of Public Law 110-181 (Jan. 28, 2008) requires some former DOD officials to obtain a written opinion regarding the applicability of post-employment restrictions if they expect to receive compensation from a DOD contractor within 2 years after leaving DOD service. The law applies to any official or former official who: (1) participated personally and substantially in an acquisition as defined in section 4(16) of the Office of Federal Procurement Policy Act with a value in excess of \$10,000,000 and serves or served in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code, or in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, or in a general or flag officer position compensated at a rate of pay for grade O-7 or above under section 201 of title 37, United States Code; or (2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10,000,000. A contractor may not “knowingly provide compensation to a former Department of Defense official described [above]” without first determining that the former official has sought and received such a written opinion. As of January 15, 2009, the Defense Acquisition Regulation Council (DARC) implemented §847 by adding Defense Federal Acquisition Regulation Supplement (DFARS) §252.203-7000 – “Requirements Relating to Compensation of Former DoD Officials” - to ensure that contractors affected by the law comply with the prohibition. The request for opinion must be initiated with the agency by the former DOD employee.

**C. COMPLIANCE WITH U.S. STATE/LOCAL AND NON-U.S. GOVERNMENT REVOLVING DOOR REQUIREMENTS**

1. U.S. state and local and non-U.S. **Governments** may have revolving-door laws and regulations similar to those of the U.S. federal **Government**. **Operating Units** that anticipate hiring as a **UTC** employee or retaining as an **Individual Service Vendor** current or former **Government Officials** of such **Governments** shall consult with their legal counsel to determine whether prohibitions or restrictions apply.
2. In the event that application screening identifies current or former U.S. state and local and non-U.S. **Government Officials** confirmed or believed to be subject to revolving door or related restrictions, the **Operating Unit** shall process such applicants for hire as **UTC** employees or retention as **Individual Service Vendors** in accordance with procedures and approval comparable to Section B above (including use of [Enclosures 2](#) and [3](#) appropriately tailored to applicable requirements).

**D. DOCUMENT RETENTION**

**Operating Units** shall retain all clearances and communications (including, without limitation, post-hire advisory letters from Human Resources or cognizant procurement manager) related to reviews and clearances undertaken and provided in accordance with Sections A-C above in the employee's personnel file (for prospective **UTC** employees) or with the agreement file (for prospective **Individual Service Vendors**).

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**ENCLOSURE 1: SUMMARY OF U.S. FEDERAL GOVERNMENT**  
**"REVOLVING DOOR" RULES AND REGULATIONS**

**I. U.S. Congress – Former Members, Officers, and Staff**

- A. For 2 years after leaving office, a former Senator may not communicate with or appear before a Member, officer or employee of either the House of Representatives or Senate, or any Legislative Branch office, with intent to influence official action on behalf of anyone else.<sup>5</sup>
- B. For one year after leaving service, Senate "Senior Staff"<sup>6</sup> may not communicate with or appear before any Senator or staff with intent to influence official action on behalf of anyone else. Other Senate staff are prohibited, for one year after leaving service, from communicating with or appearing before their former Senator or staff with intent to influence official action on behalf of anyone else.<sup>7</sup>
- C. For one year after leaving office, a Member of the House of Representatives may not communicate with or appear before a Member, officer or employee of either the House of Representatives or Senate, or any Legislative Branch office, with intent to influence official action on behalf of anyone else.
- D. Senate and House Members are prohibited from negotiating for future private employment until their successor is elected, unless the Member files a notice with the House Committee on Standards of Official Conduct or Senate Select Committee on Ethics within 3 business days of commencing negotiations.<sup>8</sup>
- E. "Senior Staff" Senate and House employees<sup>9</sup> must file a notice with the House Committee on Standards of Official Conduct or Senate Select Committee on Ethics within 3 business days of commencing negotiations for future private employment or compensation.

**II. Executive Branch - Employment Contacts, Discussions & Negotiations**

- A. Before a U.S. Government employee working in the Executive Branch begins "negotiating"<sup>10</sup> or "seeking employment"<sup>11</sup> with a private concern, the employee is required to disqualify himself/herself from taking

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<sup>5</sup> 18 U.S.C. §§207(d)(1) and 207(e)(1). This restriction also extends to the most senior Executive Branch officials, including the President, Vice president, Cabinet Secretaries, and senior officials of the Executive Office of the President.

<sup>6</sup> "Senior Staff " is anyone who was, in the one year prior to termination, paid at an annual rate of (in 2013) 130,500 or more for 60 days or more in the aggregate and is subject to adjustment each January 1.

<sup>7</sup> Senate Rule XXXVII also imposes a one-year cooling off period for any former staff who becomes a registered lobbyist or is employed by a registered lobbyist, or by an organization retaining registered lobbyists. "Senior Staff" are restricted from contacts throughout the Senate; non-Senior Staff only to their former Senator or his/her staff.

<sup>8</sup> Regardless of the 3-day rule, Senators are prohibited from negotiating employment until their successor is chosen if their private employment involves "lobbying activities" as defined in the Lobbying Disclosure Act of 1995.

<sup>9</sup> See footnote 6.

<sup>10</sup> "Negotiating" is construed broadly to include discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment. The term is not limited to discussions of specific terms and conditions of employment in a specific position.

<sup>11</sup> "Seeking employment" includes an unsolicited communication to any person, or such person's agent or intermediary, regarding possible employment with that person. Submission of a resume or other proposal to an entity or person who is directly affected by the performance or nonperformance of the employee's duties constitutes "seeking employment." Seeking employment, however, does not encompass (a) merely requesting a job application; (b) submitting resumes or other employment proposals to an entity or person that is not affected by the performance or nonperformance of the employee's duties; or (c) submitting resumes or other employment proposals to an entity or person affected by the performance or nonperformance of the employee's duties only as part of an industry or discrete class. In such circumstances, an employee will be considered to have begun seeking employment upon receipt of any response indicating an interest in employment discussions (i.e., made a response other than rejection to an unsolicited communication from any prospective employer regarding possible employment). A response that defers discussions until the foreseeable future does not constitute rejection of an unsolicited employment proposal.



any governmental action which could impact the prospective employer. A criminal statute, 18 U.S.C. §208, prohibits Federal employees from participating "personally and substantially" in any particular Government matter in which any private entity, with which an employee is negotiating or has an arrangement for future employment, has a financial interest.

- B. These restrictions apply to those matters in which an employee participates "personally and substantially" through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise. To participate "personally" means to do so directly and includes the participation of a subordinate when actually directed by a senior in the matter. "Substantially" means that an employee's involvement was of significance to the matter.
- C. The government employee can avoid violating this statute by disqualifying himself from participating in any Government matters in which the prospective employer has a financial interest. Disqualification is accomplished by not participating in the particular matter and by providing written notice to his/her supervisor. In addition, an employee may participate in a particular matter involving an employer that he is negotiating with for employment after he has first obtained a written waiver issued under 18 U.S.C. §208(b)(1). The employee seeking a waiver must advise his supervisor of the nature and circumstances of the conflicting interest, coordinate with an ethics counselor, and obtain written permission to participate before taking the action affecting the prospective employer.
- D. In addition to the above, the Procurement Integrity Act, 41 U.S.C. §423, imposes job searching restrictions on Federal employees who have been involved in agency procurements. The Act contains notification and disqualification<sup>12</sup> requirements for employees who contact or are contacted by bidders or offerors regarding non-Federal employment, and prohibits disclosure of certain information relating to ongoing procurements. The Act also contains a provision that bars certain employees who were involved in large procurements from employment with certain private employers for a period of 1 year. Employees or organizations that violate the Procurement Integrity Act are subject to criminal and civil penalties.

The Act requires an employee who is "personally and substantially" participating in an agency procurement in excess of \$100,000, and who contacts, or is contacted by, a bidder or offeror in that procurement regarding possible non-Federal employment, to report the contact promptly in writing to the official's supervisor and to the agency's Designated Agency Ethics Official, and either to reject the possibility of non-Federal employment; or to disqualify himself/herself from further participation in the procurement. Disqualification lasts until such time as the agency authorizes the official to resume participation in such procurement because the person is no longer a bidder or offeror in that Federal agency procurement, or all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

In the context of the Act, "participated personally and substantially" means active and significant involvement in activities directly related to the procurement, to include: (1) drafting, reviewing, or approving the specification or statement of work for the procurement; (2) preparing or developing the solicitation; (3) evaluating bids or proposals, or selecting a source; (4) negotiating price or terms and conditions of the contract; and (5) reviewing and approving the award of the contract. Substantial participation requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. Participation may be substantial even though it is not determinative of the outcome of a particular matter. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort. While a series of peripheral acts may be insubstantial, the single act of approving or participating in a critical step may be substantial. However, the review of procurement documents solely to determine compliance with regulatory, administrative, or budgetary procedures, does

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An employee is no longer seeking employment when: (1) the employee or the prospective employer rejects the possibility of employment and all discussions of possible employment have terminated; or (2) two months have expired after the employee's unsolicited communication and the prospective employer has not responded or indicated interest in such employment.

<sup>12</sup> An employee required to disqualify himself from a procurement shall submit, prior to initiation or engaging in employment discussions, a written notice of disqualification from further participation in the procurement to the head of the contracting activity (HCA) or designee.

not constitute substantial participation in a procurement. Generally, an individual will not be considered to have participated personally and substantially in a procurement solely by participating in (1) agency level boards, panels, or other advisory committees that review program milestones or evaluate and make recommendations regarding alternative technologies or approaches for satisfying broad agency level missions or objectives; (2) the performance of general, technical, engineering, or scientific effort having broad application not directly associated with a particular procurement, notwithstanding that such general, technical, engineering, or scientific effort subsequently may be incorporated into a particular procurement; (3) clerical functions supporting the conduct of a particular procurement; or (4) procurements to be conducted under the procedures of OMB Circular A-76, participation in management studies, preparation of in-house cost estimates, preparation of "most efficient organization" analyses, and furnishing of data or technical support to be used by others in the development of performance standards, statements of work, or specifications.

- E. Job search expenses. A current government officer or employee may accept travel benefits, including meals, lodging, and transportation, if customarily provided by a prospective employer in connection with bona fide employment discussions. In some cases where UTC has an interest that could be affected by the performance or nonperformance of the employee's duties, disqualification requirements discussed above will apply.
- D. Working during terminal leave. Many military officers end their careers by terminating employment via "terminal leave," i.e., using accumulated time off before formally resigning from Government service. UTC may employ such persons while they are on terminal leave. However, because the employee remains on active duty while on terminal leave, a senior officer who is required to file a financial disclosure report (either an OGE form 450 or SF 278) must obtain written permission from the agency. In addition, 18 U.S.C. §205 prohibits a military officer (not enlisted personnel) or Federal civilian employee from representing any entity other than the United States before any Federal court or agency. 18 U.S.C. § 203 prohibits officers and civilian employees from "directly or indirectly" receiving compensation for representational services rendered "either personally or by another" before the U.S. Government. These provisions apply while a military officer remains on terminal leave. They no longer apply to a military officer after his/her retirement.

### **III. Former Government Employees**

- A. The Procurement Integrity Act prohibits present and former U.S. officials, including members of the Armed Forces, from disclosing contractor bid or proposal information<sup>13</sup> or source selection information<sup>14</sup> before the award of a Federal agency procurement contract. The Act also prohibits other individuals from obtaining such information before the award of a Federal agency procurement contract.

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<sup>13</sup> The Act defines "contractor bid or proposal information" to include any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly: (1) cost or pricing data (as defined by 10 U.S.C. §2306a(h) with respect to procurements subject to that section, and 41 U.S.C. §254b(h), with respect to procurements subject to that section); (2) indirect costs and direct labor rates; (3) proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation; or (4) information marked by the contractor as "contractor bid or proposal information," in accordance with applicable law or regulation.

<sup>14</sup> The Act defines "source selection information" as any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly: (1) bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening; (2) proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices; (3) source selection plans; (4) technical evaluation plans; (5) technical evaluations of proposals; (6) cost or price evaluations of proposals; (7) competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract; (8) rankings of bids, proposals, or competitors; (9) the reports and evaluations of source selection panels, boards, or advisory councils; or (10) other information marked as "source selection information" based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

- B. U.S. Government employees are prohibited by 18 U.S.C. §208 from making any communication with the Government on behalf of an organization in connection with any particular matter (e.g., contract, claim, etc.) in which the employee was personally and substantially involved while a government employee. Additional broad restrictions apply to supervisory and senior level government employees, former members of Congress, former Congressional staff members, and employees who were involved in trade or treaty negotiations. The restrictions prohibit communicating with the intent to influence the department or agency that employed the individual. Note that employment of these individuals is not prohibited, but these individuals for varying periods cannot perform certain types of duties and communications; some include lifetime prohibitions.
- C. The Procurement Integrity Act indicates that a former official of a Government agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within a period of 1 year after that official served in any substantial position<sup>15</sup> relating to an award of a contract in excess of \$10 million to that contractor. An exception is made for compensation paid by a division or affiliate of the prohibited contractor if the division or affiliate does not produce the same products or services as the entity of the contractor that is responsible for the contract in issue.
- D. **10 U.S.C. §2408** prohibits UTC from knowingly employing a person convicted of fraud or felony arising out of a contract with the Department of Defense for a period of five years from date of conviction to work in a management or supervisory capacity, serve on the board of directors, or serve as a consultant.
- E. **18 U.S.C. § 207** applies to former officers and civilian employees (not enlisted personnel), and to some Reserve officers and special Government employees.
1. Subsection **207(a)(1)** prohibits former officers and employees from knowingly making, with the intent to influence, any communication to, or appearance before, any officer or employee of any department, agency, court, or court-martial, of the United States on behalf of any other person (except the United States) in connection with a particular matter involving a specific party or parties in which they participated personally and substantially while in Government service. This prohibition lasts for the life of the former officer or employee and commences upon termination of Government service. The focus of this prohibition is on the former officer or employee who participated in a matter while employed by the Government and who later "switches sides" by representing another person on the same matter before the United States. This section of the statute does not, however, restrict a former official from providing "behind-the-scenes" or "in-house" assistance to a private employer. This prohibition also does not apply to communications to, or appearance before, Members of Congress or their legislative staffs. A violation of this prohibition occurs only when the following four criteria are met: (a) the former employee must have worked on a particular matter while in Government service; (b) the scope of the former employee's work must have amounted to "personal and substantial" participation in that matter; (c) a specific party to the particular matter must have been identified at the time of that Government work; and (d) the former employee must, with the intent to influence, communicate with, or appear before, an officer or employee of the Federal Government on behalf of another person or entity regarding that same particular matter.

A "particular matter" covered by this proscription includes any specific contract, application, request for a ruling or other determination, rulemaking, claim, controversy, investigation, charge, accusation,

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<sup>15</sup> This means he/she served, at the time of selection or contract award, as (1) procuring contracting officer (PCO), source selection authority (or source selection evaluation board member), or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of \$10 million; (2) program manager, deputy program manager, or administrative contracting officer (ACO) for a contract in excess of \$10 million involving that contractor; or (3) personally made a decision to award a contract, subcontract, modification, or task or delivery order in excess of \$10 million to that contractor; establish overhead or other rates applicable to a contract or contracts for that contractor in excess of \$10 million; approve issuance of a contract or payments in excess of \$10 million to that contractor; or pay or settle a claim in excess of \$10 million for that contractor. "In excess of \$10 million" means (1) the value, or estimated value, at the time of award, of the contract, including all options; (2) the total estimated value at the time of award of all orders under an indefinite-delivery, indefinite quantity, or requirements contract; (3) any multiple award schedule contract unless the contracting officer documents a lower estimate; (4) the value of a delivery order, task order, or an order under a Basic Ordering Agreement; (5) the amount paid or to be paid in settlement of a claim; or (6) the estimated monetary value of negotiated overhead or other rates when applied to the Government portion of the applicable allocation base.

arrest, or judicial or other proceeding. Not included are the formulation of general policy, or other actions of general applicability in which the former officer or employee was involved unless the outcome may have a direct and predictable effect on a particular person.

Thus, in most instances, a former officer or employee may represent a private employer in connection with a matter involving a specific application of policies that he helped formulate. The prohibition does not arise unless the former employee is working on the same particular matter that he worked on while in Government service. Factors to be considered in determining whether two particular matters are the same include the extent to which the matters involve the same basic facts, the same or related issues, the same or related parties, the same confidential information, the continuing existence of an important Federal interest, as well as the time elapsed between the two matters.

The prohibition does not arise unless the former official's participation in the matter was "personal and substantial." Personal and substantial participation can be exercised "through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action." Personal participation refers to both the former employee's actions and those of a subordinate when actually directed by the former employee. Substantial participation means involvement that is, or reasonably appears to be, significant to the matter. Mere official responsibility over a matter, knowledge of it, or perfunctory involvement on an administrative or peripheral issue does not amount to substantial participation.

The prohibition does not arise unless a specific party to the particular matter is identified at the time of the Government work. A specific party is an identified non-Government entity. For example, a draft request for contract proposals will become a particular matter involving a specific party or parties once potential contractors are identified. For §207(a)(1) to apply, however, the former official's employer does not need to have been identified as a party to the matter prior to his departure from Government service. So long as some specific party (or parties) was identified, the statute applies.

2. A second restriction is identical to the lifetime restriction discussed above except that it is of shorter duration, and applies only if an officer or employee had official responsibility over the matter and did not participate personally and substantially in that matter. For 2 years after terminating Government service, **18 U.S.C. § 207(a)(2)** prohibits former officers or employees from making, with the intent to influence, any communication to, or appearance before, Government officials in connection with a particular matter involving a specific party or parties that came under their official responsibility during their last year of Government service. The term "official responsibility" is defined as "direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions." "Administrative authority" means authority for planning, organizing, or controlling matters rather than authority to review or make decisions on ancillary aspects of a matter. Those areas assigned by statute, regulation, Executive Order, job description, or delegation of authority ordinarily determine the scope of an officer's official responsibility. The Office of Government Ethics has determined that all particular matters under consideration in an agency are under the official responsibility of the agency head, and each is under that of any intermediate supervisor having responsibility for an official who actually participates in the matter within the scope of his duties. "Actually pending" means that the matter was in fact referred to, or under consideration by, persons within the former official's area of responsibility, not that the matter merely could have been referred. This prohibition does not restrict in-house assistance to an employer. Former employees are not subject to this restriction, unless at the time of the proposed representation of another they know or reasonably should have known that the matter had been under their official responsibility during their last year of Government service.
3. Trade or treaty negotiations. For 1 year after terminating Government service, **18 U.S.C. § 207(b)** prohibits former officers and employees from knowingly representing, aiding or advising an employer or any entity regarding ongoing trade or treaty negotiations based on information that they had access

to and that is exempt from disclosure under the Freedom of Information Act. This restriction begins upon separating or retiring from Government service and, unlike the restrictions of provisions of 18 U.S.C. § 207(a)(1) or (2) discussed above, prohibits former officials from providing "behind-the-scenes" assistance on the basis of the covered information to any person or entity. This restriction applies only if the former official was personally and substantially involved in ongoing trade or treaty negotiations within the last year of his Government service. It is not necessary that the former official have had contact with non-U.S. parties in order to have participated personally and substantially in a trade or treaty negotiation. The treaty negotiations covered by this section are those that result in international agreements that require the advice and consent of the Senate. The trade negotiations covered are those that the President undertakes under section 1102 of the Omnibus Trade and Competitiveness Act of 1988. A negotiation becomes "ongoing" at the point when both (1) the determination has been made by competent authority that the outcome of the negotiation will be a treaty or trade agreement, and (2) discussions with a foreign government have begun on a text.

- F. Restrictions applicable to former senior employees. The term "former senior employee" includes all former general and flag officers (pay grade O-7 or above) and civilian employees who were employed in a position for which the rate of pay is specified in or fixed in accordance with the Executive Schedule, or in a position for which the rate of pay is equal to or greater than the rate of pay payable for Level V of the Executive Schedule (\$147,200 in 2014).

The following additional restrictions apply to these individuals:

1. One-year restriction on communicating with former department, agency, or component. For 1 year after serving in such a position, former senior employees are prohibited by virtue of **§207(c)** from knowingly making, with the intent to influence, any communication to, or appearance before, an employee of the department, agency or designated component in which they served during their last year of Government service, if that communication or appearance is made on behalf of any other person seeking official action on a matter. This 1-year restriction is measured from the date an employee ceases to be a senior employee, not from the termination of Government service, unless the two occur simultaneously. Like the restrictions of § 207(a)(1) and § 207(a)(2) discussed above, this restriction prohibits communications to, and appearances before, the Government but does not prohibit "behind-the-scenes" assistance. However, this prohibition differs from the restrictions discussed above in several important respects: (a) the former senior employee need not have had any prior involvement in, or responsibility over, the matter; (b) the matters covered are broader and need not involve specific parties; and (c) it is limited to contact with the department or agency in which the former senior employee served during his last year of Government service and does not extend Government-wide. For purposes of § 207(c), the Department of the Defense is divided into a parent department and various components. At this time, the designated DOD components are the Departments of the Navy, Army, and Air Force, Defense Information Systems Agency, Defense Intelligence Agency, Defense Logistics Agency, National Imagery and Mapping Agency, Defense Special Weapons Agency, Office of the Secretary of Defense, and National Security Agency. Subject to the rule for detailees,<sup>16</sup> a former employee of any of these components is not barred from making communications to the other designated components.

**NOTE 1: Section 1125 of the Fiscal Year 2004 National Defense Authorization Act (Pub. L. No. 108-136, Nov. 23, 2003) expired 24 November 2005. It contained a provision requiring that the restrictions of 18 USC 207(c) be extended to additional levels of members of the Senior Executive Service (SES). Although contained in the Department of Defense Authorization Act, this applied Government-wide. Although expired, for any SES member whose combined rate of basic pay and applicable locality pay is equal to or greater than \$135,805 as of January 11,**

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<sup>16</sup> Under 18 U.S.C. § 207(g), an officer or employee who is detailed from one department to another, shall, during the period so detailed, be deemed to be an officer or employee of both departments. Thus, a senior naval officer assigned to OSD during his final year of government service will be barred by § 207(c) from making communications to both the Department of the Navy and OSD.

2004, they are subject to the application of 18 U.S.C. 207(c) so long as their rate of basic pay remains at or above 86.5% of Executive Level II (for 2014 = \$156, 997.50).

**NOTE 2:** Executive Order 13490 of January 21, 2009 requires every “appointee” appointed on or after January 20, 2009 in every executive agency to sign a written ethics contract (1) not to accept gifts from registered lobbyists or lobbying organizations (see UTC Policies 4 and 5); (2) to refrain for 2 years from the date of appointment from participating in any particular matter involving specific parties that is directly and substantially related to former employment, lobbying activities, or former clients; (3) agree to extend the restrictions of 18 U.S.C. §207(c) for a period of 2 years following leaving government service; and (4) not to lobby any covered executive branch official or non-career SES appointee for the remainder of the Obama administration. “Appointee” means anyone appointed by the President or Vice President with the advice and consent of the Senate; non-career SES appointee; or position excepted from the competitive service (“Schedule C” policymaking and confidential positions).

2. One-year restriction on representing a foreign entity. For 1 year after serving in such a position, a former senior employee is prohibited by virtue of § 207(f) from knowingly representing, aiding, or advising a foreign entity with the intent of influencing an officer or employee of the U.S. Government in carrying out his official duties. This 1-year restriction is measured from the date an employee ceases to be a senior employee, not from the termination of Government service, unless the two occur simultaneously. For the purpose of this subsection, a “foreign entity” includes the government of a foreign country and any person or group of persons exercising sovereign political jurisdiction over any country or any part of a country. The term also includes foreign political parties and any organization or group of individuals engaged in, or seeking to engage in, the establishment, administration, or control of a foreign country or government. A foreign commercial corporation will not generally be considered a “foreign entity” for purposes of §207(f) unless it exercises the function of a sovereign. A former senior employee “represents” a foreign entity when he acts as an agent or attorney for, or otherwise communicates or makes appearances on behalf of, that entity to or before any employee of a Government department or agency. A former senior employee “aids” or “advises” a foreign entity when he assists the entity other than by making the communication or appearance. Such “behind-the-scenes” assistance to a foreign entity could, for example, include drafting a proposed communication to an agency, advising on an appearance before a department, or consulting on other strategies designed to persuade departmental or agency officials to take a certain action. A former senior employee’s representation, aid, or advice is only prohibited if made or rendered with the intent to influence an official discretionary decision of a current departmental or agency employee. Exceptions also exist for communications made solely for the purpose of furnishing scientific or technological information. Such communications do not constitute an intent to influence. This exemption applies to all of the limitations on communications discussed above except 18 U.S.C. §207(b), i.e., restrictions on trade and treaty negotiations, and 18 U.S.C. § 207(f), i.e., restrictions on former senior employees representing, aiding, and advising foreign entities. The exemption is at 18 U.S.C. § 207(j)(5). The restrictions in 18 U.S.C. §207 do not apply to communications made on behalf of the United States in performing official Government duties or performing duties as an elected official of a State or local government. Under this restriction, for example, a retired commanding officer or reporting senior official may modify evaluations and fitness reports on former subordinates in accordance with applicable regulations without violating this section. A former employee may give testimony under oath or make statements required to be made under penalty of perjury. Former personnel may give expert opinion testimony, however, only if given pursuant to a court order or if not otherwise subject to the lifetime bar (18 U.S.C. §207(a)) discussed above as it relates to the subject matter of the testimony. The restrictions also do not prohibit representing, aiding, or advising an international organization in which the Government participates, if the Secretary of State certifies in advance that such activity is in the Government’s interest.

G. Employment By Institutions Controlled By Foreign Governments.

1. Although unlikely to occur in the context of a UTC operating unit, employment by a commercial institution owned, operated, or controlled by a foreign government is prohibited. For example, a retired officer hired by an American company under contract to provide training services to a foreign government was held to be employed by a foreign government when the government had the authority, pursuant to the contract, to discharge the officer and to supervise and direct his activities. Employment by corporations which have a unity of interest and ownership with a foreign government is also included within the scope of this restriction.
2. **Foreign Agents Registration Act.** A former Government employee desiring employment by a foreign business interest (e.g., a UTC unit owned in part or controlled by a foreign government) must consider whether such employment would require registration as an agent of a foreign principal under the Foreign Agents Registration Act of 1938. This Act requires anyone engaging in activities as an agent of a foreign principal to file a registration statement with the Attorney General. If such registration is required, there is some question whether a retired officer can become so employed without violating the criminal statute that prohibits a "public official" of the United States from acting as an agent.

**ENCLOSURE 2: U.S. FEDERAL GOVERNMENT EMPLOYEE  
“REVOLVING DOOR” QUESTIONNAIRE**

COVER LETTER

[Date]

[Name & Address of Prospective Employee]

RE: “REVOLVING DOOR” QUESTIONNAIRE

Dear Mr./Ms. \_\_\_\_\_:

In regard to potential discussions involving your possible [hire as a UTC employee/retention as a [description of **Individual Service Vendor**]], we have noted that your [resume/application] indicates that you are a current or former officer or employee of the executive or legislative branches of the U.S. federal government (“USG”).

In order to comply with so-called “revolving door” laws, United Technologies Corporation (“UTC”) carefully screens current and former employees of the USG. We are concerned about whom we recruit, when and how we recruit them, and what work former USG employees may perform for UTC. In addition, there are restrictions on discussions of [employment/retention as a vendor] with any government officer or employee who may be personally and substantially involved in a federal agency procurement involving any UTC business unit.

Enclosed is a questionnaire soliciting additional information necessary for UTC to determine whether any of these restrictions apply. Please answer each question completely and accurately and sign the questionnaire in the space provided. You should attach additional sheets when necessary. If information necessary to respond to a question is not available, please indicate.

We will not conduct any discussions regarding [employment/retention] until we receive a completed questionnaire.

As you read the questionnaire, the term “UTC” should be understood to include all divisions, subsidiaries, and controlled affiliates of United Technologies Corporation, including Otis Elevator Company, Pratt & Whitney, UTC Aerospace Systems, UTC Climate, Controls & Security, and United Technologies Research Center.

Questions concerning this questionnaire should be directed to [ ] at [( ) \_\_\_ - \_\_\_\_].

QUESTIONNAIRE

For the purposes of this questionnaire, “**U.S. Federal Government Employee**” means any:

- enlisted person of the armed forces of the U.S. federal government;
- officer of the armed forces of the U.S. federal government; or
- officer or employee (elected or appointed, full or part-time, whether or not compensated) of the executive or legislative branches of the U.S. federal government including ,without limitation:
  - special government employees;
  - members of federal advisory committees;
  - elected officers of Congress;
  - current/former members of Congress;
  - personal staff of a member of Congress;
  - employees of committees of Congress; or
  - employees of other legislative offices including, without limitation:
    - Congressional Budget Office;
    - General Accounting Office; or
    - Office of Technology Assessment;

but excludes any clerical, secretarial, or other similarly-graded employees.



U.S. federal government employment:

1. Are/were you a **U.S. Federal Government Employee** within the above definition?

Yes       No

If you answered "Yes", please answer question 2.

If you answered "No", no further action is required on your part. Please sign below and return this questionnaire to UTC.

Prospective Employment or Retention by UTC:

2. Do you seek to be hired as a UTC employee or retained as a contractor/vendor?

Employee       Contractor/Vendor

3. Briefly describe your desired/anticipated duties and responsibilities:

[ ]

4. Do you expect that your UTC responsibilities will involve contact:

- With any department, agency or court of the U.S. federal government, including staff members?

Yes    No

- With the department, agency or court you are/were employed by?

Yes    No

- With a foreign entity or with an agency or instrumentality of the U.S. federal government regarding a foreign entity? ("Foreign entity" includes a foreign company, foreign government, or foreign political party).

Yes    No

- With the U.S. federal government (executive, legislative or judicial branches) with respect to any matter or proceeding in which you were personally and substantially involved while a U.S. federal government employee?

Yes    No

- With the U.S. federal Government (executive, legislative or judicial branches) with respect to any matter or proceeding that was pending before the agency or Congress and for which you exercised supervisory authority or approval?

Yes    No

If you answered "Yes" to any of the above, please provide all pertinent details. Specify the nature of your anticipated contacts with your former agency or congressional office. Specifically describe any activities related to "selling" or marketing (directly or indirectly) to the U.S. federal Government.

[ ]

5. Identify the date of your first contact with UTC regarding prospective employment or retention.  
[ ]
6. Who was the UTC point of contact?  
[ ]
7. Briefly describe the nature of the contact and who initiated such contact:  
[ ]
8. If your initial contact with UTC occurred while you were a U.S. federal government officer or employee, did you report the contact to your supervisor?  
 Yes       No  
If you answered "Yes" and reported the contact to your supervisor in writing, please attach a copy.
9. If your initial contact with UTC occurred while you were a U.S. federal government officer or employee, did you file a notice of disqualification?  
 Yes    No  
If you answered "Yes", please attach a copy.

U.S. federal government employment history (executive agencies & congressional houses, staffs, etc.):

10. Identify the date you will (did) terminate from active duty or civilian employment with the U.S. federal government.  
[ ]
11. What was your military pay grade (e.g., E-4, O-6), GS grade (e.g., GS-13), or Executive Schedule level on termination date?  
[ ]
12. Are you a member of a military or National Guard reserve unit?  
 Yes       No  
If you answered "Yes", provide details of the nature of your reserve status, expected duties in your reserve unit, etc.  
[ ]
13. Describe all current and prior position(s) held while a U.S. federal government officer or employee (executive or legislative branch). Include rank or grade, dates, a brief description of each position, and the work location for each position:  
[ ]
14. Within the past two (2) years, have you been involved (including through review or approval) in a procurement function for any U.S. federal government agency (including negotiation, evaluation, selection, approval or award of a contract; quality assurance, operational and developmental testing, auditing, or approval of

payment under a contract; or management of a procurement program) or in the negotiation, as a representative of the U.S. federal government, of a contract, claim, or settlement action which involved any unit of UTC?

Yes       No

If you answered "Yes", please provide further details, including the percent of working days devoted to such activity and a description of the activity that involved UTC.

[ ]

15. Were you personally and substantially involved during U.S. federal government service (at any time) in any matter relating to the services you expect to furnish to UTC, relating to the products or services of UTC, or relating to any employees, officers, agents, or representatives of UTC?

Yes       No

If you answered "Yes", please provide full details, including the dates of involvement.

[ ]

16. Within the past year, or the last year of your employment with the U.S. federal government, was any matter involving UTC pending under your official responsibility?

Yes       No

If you answered "Yes", provide full details.

[ ]

17. While a U.S. federal government employee, did your job entail any contact with or business relationship with UTC?

Yes       No

If you answered "Yes", describe the nature and duration of any contacts and a description of your U.S. federal government job responsibilities.

[ ]

18. Have you ever requested and/or received an "ethics" opinion regarding post-U.S. federal government employment from a supervisor, agency ethics official, standards of conduct counselor, or other U.S. federal government official serving in a comparable capacity?

Yes       No

If you answered "Yes", please attach a copy of any and all such opinions.

**NOTE: Under DOD Federal Acquisition Regulation Supplement 252.203-7005, UTC is obligated to represent that you are in compliance with all post-employment restrictions covered by 18 USC 207, 41 USC 2101-2107, 5 CFR Parts 2637 and 2641, and Federal Acquisition Regulation 3.104-2.**

**Section 847 of Public Law 110-181 (enacted Jan. 28, 2008) requires some former DOD officials to obtain a written opinion regarding the applicability of post-employment restrictions if they expect to receive compensation from a DOD contractor within 2 years after leaving DOD service. The law applies to any official or former official who: (1) participated personally and substantially in an acquisition as defined in section 4(16) of the Office of Federal Procurement Policy Act with a value in excess of \$10,000,000 and serves or served in an Executive Schedule position under subchapter II of**

chapter 53 of title 5, United States Code, or in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, or in a general or flag officer position compensated at a rate of pay for grade O-7 or above under section 201 of title 37, United States Code; or (2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10,000,000. A contractor may not “knowingly provide compensation to a former Department of Defense official described [above]” without first determining that the former official has sought and received such a written opinion.

19. Do you expect to be involved in any way with U.S. federal government classified information?

Yes       No

If you answered “Yes”, what is the highest level of access required? \_\_\_\_\_.

Do you presently possess the required security clearance?

Yes       No

If you answered “Yes”, provide details concerning type of clearance, date granted, and other pertinent information necessary to verify such information.

[ ]

20. Have you ever been convicted of fraud or other felony, debarred or suspended from doing business with the U.S. federal government, declared ineligible by the U.S. federal government to perform services for UTC or any other U.S. federal government contractor, the subject of an indictment charging you with a felony or are you presently the subject or target of any investigation that could lead to felony charges?

Yes       No

If you answered “Yes”, please provide further details including the date and disposition of any such action.

[ ]

21. Have you filed any notices or reports required by your agency regarding post-employment activities?

Yes       No

If you answered “Yes”, please attach copies.

22. Have you participated in the last year, or the last year of your U.S. federal government employment in any trade or treaty negotiations of any kind?

Yes       No

If you answered “Yes”, please attach details of all such activities.

[ ]

23. If you are/were an appointee of the Executive Branch of the U.S. federal government, did you sign an ethics agreement as required by Executive Order 13490 or otherwise?

Yes       No

If you answered “Yes”, please attach a copy.

Certification

By signing below, I certify that the answers to this Questionnaire are accurate and complete.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

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**ENCLOSURE 3: U.S. FEDERAL GOVERNMENT EMPLOYEE  
ACKNOWLEDGEMENT**

POST-GOVERNMENT EMPLOYMENT ACKNOWLEDGEMENT AGREEMENT

This offer is contingent upon your understanding of, and your adherence to, the following conditions and restrictions:

- (1) If you are currently in the Reserve/National Guard/military/federal civilian service, during your remaining service you will not be involved with, and will not have supervisory responsibility over, any particular matters that could have a direct and predictable impact on United Technologies Corporation's ("UTC") financial interest. As used here and below, a "particular matter" refers to a particular investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding; merely using UTC equipment or interfacing with UTC personnel generally does not qualify as a "particular matter" for purposes of this revolving door restriction. If your duties during your remaining Reserve/National Guard/military/federal civilian service change such that you would be required to work on any such UTC matters, you must immediately recuse yourself, in writing to your federal employer, from any further participation in such matters and notify your UTC supervisor immediately. See 18 U.S.C. § 208.
- (2) You are permanently prohibited from knowingly making, with the intent to influence, any communication to or appearance before any officer or employee of the U.S. federal government in connection with any particular matter in which you were personally and substantially involved while employed by the U.S. federal government. See 18 U.S.C. § 207(a)(1).
- (3) You may not, within two years after the termination of your Reserve/National Guard/military/federal civilian service, knowingly make, with the intent to influence, any communication or appearance before any officer or employee of the U.S. federal government in connection with any particular matter that was pending under your official responsibility while employed by the U.S. federal government. 18 U.S.C. § 207(a)(2).
- (4) If your employment with UTC will begin while you are on terminal leave from your military/federal civilian employment, you may not, during the period of terminal leave, prosecute any claim against the United States or represent UTC before the U.S. federal government, or accept compensation for representational services rendered before the U.S. Government. See 18 U.S.C. §§ 203 & 205.
- (5) In the performance of your UTC duties, you may not use or disclose, whether intentional or not, any: (i) proprietary information of a UTC competitor to which you gained access during your Reserve/National Guard/military/federal civilian service; or (ii) other non-public information to which you gained access during your Reserve/National Guard/military/federal civilian service that could give UTC an unfair competitive advantage relative to its competitors.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_