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Post-Government Employment Risk in the FY26 Contracting Environment

Why most contractors are citing the wrong §847

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Executive Summary

Contractors and former officials citing "NDAA FY26 §847" as a new post-government employment provision are citing the wrong section. Section 847 of the FY26 NDAA (Public Law 119-60, signed 2025-12-18) prohibits the purchase of photovoltaic modules from foreign entities of concern. It has nothing to do with the revolving door.

The post-employment §847 that compliance officers have referenced for nearly two decades is Section 847 of the **FY08 NDAA (Public Law 110-181)**. It remains in force, implemented through DFARS 252.203-7000 and the representation clause DFARS 252.203-7005. FY26 NDAA did not renumber it, did not amend it, and did not replace it.

The error sounds small. It is not. Every defense solicitation issued in 2026 — including FAR Part 12 commercial-item buys — triggers DFARS 252.203-7005. A contractor that submits a representation citing a misstated statute is on record with a defective certification before the first cost-volume page is opened.

This brief clarifies what the operative law actually is, what FY26 NDAA did change, and the four practical steps a small defense prime should take before hiring a former covered DoD official in 2026.

1. The §847 Name Trap

Citation	What it actually is	Status
FY08 NDAA §847 (P.L. 110-181)	The 30-day ethics-opinion requirement for former covered DoD officials; source of DFARS 252.203-7000	In force
FY26 NDAA §847 (P.L. 119-60)	Ban on procurement of photovoltaic modules from foreign entities of concern	In force, unrelated
10 U.S.C. § 2397	Prior DoD-specific post-employment reporting statute	**Repealed 1996** (P.L. 104-106)

A brief, proposal narrative, or compliance memo that cites "NDAA FY26 §847" for post-employment restrictions is citing a solar-panel statute. A memo that cites 10 U.S.C. § 2397 is citing a statute repealed thirty years ago. Both are red flags a competent contracting officer or source-selection evaluator will catch.

2. What Actually Governs Post-Government Employment in 2026

Former covered DoD officials and the contractors that hire them face a four-layer statutory stack. Each layer is independent. Compliance with one does not excuse noncompliance with another.

Layer 1 — Criminal (18 U.S.C. § 207). Lifetime ban on representing others back to the United States on particular matters involving specific parties in which the former employee participated personally and substantially. Two-year ban on matters under official responsibility in the last year of service. One-year "cooling-off" ban on representational communications by senior officials to their former agency.

Layer 2 — Procurement integrity (41 U.S.C. § 2104). One-year ban on accepting compensation from a contractor for officials who served in defined key roles on a procurement exceeding $10 million — program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, Source Selection Evaluation Board member, or chief of the financial or technical evaluation team.

Layer 3 — DoD-specific (FY08 NDAA §847, implemented via DFARS 252.203-7000). A covered DoD official must request a written ethics opinion before accepting compensation from a DoD contractor within two years of leaving. Contractors may not knowingly compensate such an official absent that opinion or at least a 30-day advance request. Penalty for the contractor: rescission, suspension, or debarment under 41 U.S.C. § 2105(c).

Layer 4 — Lobbying (FY18 NDAA §1045, as potentially extended by FY26 NDAA). For senior DoD officials, one-to-two-year prohibition on lobbying contacts and behind-the-scenes lobbying activities directed at DoD. The FY26 NDAA passed the House markup with an amendment extending these bans for general and flag officers — one-star and two-star officers extended from one year to three; three-star and four-star officers extended from two years to five. Final enacted text should be verified directly against P.L. 119-60 before relying on the extension.

Layer 5 (if applicable) — Foreign employment (10 U.S.C. § 989). Added by FY24 NDAA. Restricts post-service employment by retired or separated service members with designated countries of concern.

3. What FY26 NDAA Did Change for the Revolving Door

Two confirmed changes warrant attention even though neither renumbered §847:

Tightening OCI waiver authority (FY25 NDAA §881, now in effect). Organizational conflict of interest waivers now require written justification and approval at the deputy agency-head level or higher. Do not plan a capture on the assumption that a waiver is attainable. It may not be.

Security-clearance revocation for PRC-aligned lobbying (FY26 NDAA). Persons found to have lobbied on behalf of Chinese military companies face clearance revocation.

Open item — Mace amendment. The extension of general-officer lobbying bans (one-star/two-star: 1→3 years; three-star/four-star: 2→5 years) passed HASC markup in July 2025. Whether it survived bicameral reconciliation into the enacted P.L. 119-60 is not yet confirmed in the public legal-analysis record. If you are building a capture around a retired flag officer, have counsel pull the enrolled text of S. 1071 before finalizing the offer letter.

Proposed FAR rule (January 2025). A proposed rule moving organizational-conflict-of-interest coverage from FAR Part 9 to FAR Part 3 and redefining OCI categories is still pending a final rule as of this writing. Monitor acquisition.gov for publication.

4. Case Study — CACI v. United States (CHS-6)

In July 2023 the Court of Federal Claims upheld the Army's disqualification of CACI Inc.-Federal from competing on the Common Hardware Systems Generation 6 (CHS-6) IT procurement — a contract with a ceiling of up to $7.9 billion. The Federal Circuit affirmed.

The disqualifying fact: CACI, through a subcontractor, had engaged an independent consultant who was the former chair of the source selection advisory council on CHS-5 and former product lead on CHS-3 and CHS-4. CACI argued the consultant was walled off from pricing and proposal work. The Army and the courts found the wall insufficiently documented.

The teaching is not that the consultant was disqualifying. It is that CACI could not prove the mitigation. The appearance-of-impropriety standard under FAR Subpart 9.5 is evaluated on the documentary record — firewall memoranda, recusal acknowledgments, access controls, contemporaneous minutes. Absent those, the protest sustains.

A $7.9 billion ceiling was lost over records that should have existed and did not. The lesson scales down: SDVOSBs with past-performance portfolios built on hiring former program officials are exposed to the same standard with proportionally less compliance infrastructure to defend it.

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5. Why These Failures Happen — The Workforce Dimension Most Compliance Memos Miss

The CHS-6 result reads, on the statutes alone, as a documentation failure. That framing is incomplete. A richer account, drawn from practitioner literature not widely indexed by the usual proposal-research tools, points to a workforce dimension on both sides of the transaction.

Matthew Kambrod's *Lobbying for Defense* — written by a career practitioner, not a think-tank commentator — argues that the modern acquisition environment concentrates high-stakes judgment in "young, inexperienced military officers and government contracts specialists" whose view of propriety is dictated by personal preference or product-manager advocacy rather than statutory rigor. Kambrod's prescription is blunt: the problem "can just as easily be solved by getting back to basics and adhering to the FARs." The remedy he proposes is not regulatory reform. It is the re-insertion of senior, experienced officials into the decisions they have delegated downward.

Thomas Bruneau's *Outsourcing National Defense* describes the contracting-officer culture a contractor is actually interacting with: a workforce that has internalized the operating maxim "Stick with the FAR. It will keep you out of jail." That culture produces a predictable pattern — risk-averse personnel default to strict compliance over nuanced OCI mitigation, and they penalize contractors who cannot make mitigation self-evident in writing. Bruneau also documents a compensation gap (roughly $167,000 for a senior DoD civilian versus a $763,029 contractor cap, using 2012 figures) that continues to drain experienced personnel out of the career acquisition workforce.

The operational translation for a small prime is straightforward. A contractor who hires a former covered official is placing that hire into a regulatory environment evaluated by personnel whose incentives reward over-compliance and documentary certainty. An OCI mitigation plan, a firewall memorandum, a signed scope memo, and a dated AGEAR confirmation are not legalisms. They are the artifacts the regulatory reviewer needs to rule in your favor without personal career risk. That is the workforce dimension behind the four-step workflow below.

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6. Enforcement Climate, 2024–2026

Criminal enforcement under 18 U.S.C. § 207 remains rare. Enforcement is overwhelmingly civil and administrative — contract rescission, OCI disqualification, suspension, and debarment — reserved for egregious cases that cross into bribery or procurement fraud.

Recent cases that warrant reading:

- **USAID / Vistant / Apprio (2024).** A USAID contracting officer and three corporate executives pled guilty to a decade-long bribery scheme involving 14 prime contracts exceeding $550 million. Source: DOJ press release.

- **Cambridge International Systems (2025).** The company pled guilty, forfeited $1.67 million in profits, paid a $2.25 million fine. The former EVP was sentenced to 18 months custody and 12 months home confinement.
- **GAO-25-107523 (April 2025).** Of quarterly lobbying-disclosure reports filed in 2024, 21 percent named lobbyists who did not fully disclose prior federal jobs. From 2015 to 2024, 3,566 non-filer cases were referred to DOJ; approximately 63 percent remained unresolved as of December 2024.

The picture: the criminal ceiling is high, but the administrative floor is active, and disclosure data quality is poor enough that automated audits are getting easier, not harder, for regulators to run.

7. A Four-Step Compliance Workflow for a Small Defense Prime

The following is a workflow a small prime can build and document before the next hire of a covered DoD official. It does not require outside counsel at every step, but it does require that each step produce a written artifact.

Step 1 — Identify covered status. For any prospective hire who left DoD within the last two years, determine whether they meet the DFARS 252.203-7000 definition of "covered DoD official" — Executive Schedule, Senior Executive Service, general or flag officer (O-7 and above), program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, SSEB member, or chief of financial or technical evaluation teams, in connection with an acquisition exceeding $10 million. Document the determination.

Step 2 — AGEAR verification. If the individual is covered, confirm they have requested a written ethics opinion through the After Government Employment Advice Repository (AGEAR), or that at least 30 days have elapsed since their request, before any compensation is paid. Retain a copy of the request confirmation or the opinion itself.

Step 3 — Scope memorandum. Produce a written scope memorandum defining what the former official will and will not do for the company during the one-year, two-year, and lifetime prohibition windows that apply to their role. Have the individual sign it. Review it annually.

Step 4 — Representation audit. Before every DoD proposal, confirm the DFARS 252.203-7005 representation is true as of the date of submission. If any covered former official has joined, departed, or changed scope since the last representation, refresh the underlying scope memorandum first.

This workflow is proportional to the risk and defensible on the documentary record. It is the kind of process CACI did not have in the CHS-6 protest.

Sources

- Public Law 119-60 (FY26 NDAA): https://www.congress.gov/bill/119th-congress/senate-bill/1071
- FY26 NDAA Joint Explanatory Statement: https://armedservices.house.gov/uploadedfiles/fy26_ndaa_joint_explanatory_statement.pdf
- DFARS 252.203-7000 (Compensation of Former DoD Officials): https://www.acquisition.gov/dfars/252.203-7000
- DFARS 252.203-7005 (Representation): https://www.acquisition.gov/dfars/252.203-7005
- FAR Subpart 3.104 (Procurement Integrity Act): https://www.acquisition.gov/far/part-3

- DoD SOCO Post-Government Employment portal: https://dodsoco.ogc.osd.mil
- DODIG-2020-044 (AGEAR compliance review): https://media.defense.gov/2019/Dec/26/2002229032/-1/-1/1/DODIG-2020-044.PDF
- GAO B-421224 (CACI CHS-6 decision): https://www.gao.gov/products/b-421224
- DOJ press release (USAID / Vistant / Apprio, 2024): https://www.justice.gov/opa/pr/usaid-official-and-three-corporate-executives-plead-guilty-decade-long-bribery-scheme
- GAO-25-107523 (2024 Lobbying Disclosure): https://www.gao.gov/products/gao-25-107523

Practitioner reading (not web-indexed legal summaries). Matthew Kambrod, *Lobbying for Defense* (workforce dimension, inexperienced officials, return-to-FARs argument). Thomas C. Bruneau, *Outsourcing National Defense* (risk-averse contracting-officer culture, compensation gap and experienced-personnel drain).

About Alpha Zulu Solutions. Alpha Zulu Solutions is a Service-Disabled Veteran-Owned Small Business (CAGE 18L45) headquartered in the Commonwealth of Virginia. We advise federal primes and small businesses on capture strategy, compliance, and contracting-officer-grade proposal review. Brief prepared by Alpha Zulu Solutions, April 2026.

Not legal advice. This brief summarizes publicly available statutes, regulations, and agency guidance for general informational purposes. It is not a legal opinion. Contractors facing specific post-employment decisions should consult qualified counsel.