



Fact Sheet: How to Deter Foreign Influence and Protect Government Integrity

The Problem

POGO [recently exposed](#) the prevalence of former high-ranking U.S. military officials using an [obscure waiver provision created by Congress](#) to receive awards and employment from foreign governments, many located in the Middle East with questionable human rights records. The waiver is needed because the [foreign emoluments clause of the Constitution](#) prohibits government officials (current and former) from accepting gifts, compensation, and anything of value from foreign countries. This clause is supposed to guard against serious risks to national security and inappropriate conflicts of interest, especially the deleterious effects of undue foreign influence on the U.S. policymaking process.

The waiver process requires approval by certain military branch officials and the secretary of state for a retired military official to receive gifts, awards, employment, or payments from a prospective foreign employer.

POGO's investigation (as well as a parallel [Washington Post investigation](#)) exposed the degree to which the waiver approval process amounts to a virtual rubber-stamp operation; the bare-bones level of information included in waiver applications; the lack of ongoing monitoring of former military officials and their foreign employment situations; the almost complete lack of penalties or enforcement for retired officials who have not obtained waivers before working for foreign countries; and the existence of clear and obvious conflicts of interest between former job responsibilities and future employers, among others.

We need to ensure that former defense officials are acting in the interest of the United States and not selling out to the highest bidders and serving the best interests of foreign governments and entities instead.

The Solution

Since Congress created this problem by codifying a “get out of the Constitution free” card, it is up to Congress to fix the problem. Doing so will not solve the myriad issues that result in low levels of public trust in and high levels of disapproval of the federal government. However, recognizing that reforms must be made and taking steps to mitigate conflicts of interest is essential to restoring faith in the integrity of government and the policymaking process.

Specifically, Congress should take the following steps:

- Enact substantive prohibitions on former government officials (including but not limited to the military) seeking and obtaining employment with certain problematic foreign countries or entities controlled by those countries. The list of prohibited employers should include adversaries, human rights abusers, regimes that do not respect religious freedom, and other authoritarian and malign governments and the entities controlled by those governments.
- Enact general time frame restrictions — cooling-off periods — that institute a buffer between when a former official retires and when they are permitted to apply for a waiver to work for a non-prohibited foreign entity. A cooling-off period will blunt the corrupting effects of a former official's previous

connections and insights so they cannot be inappropriately leveraged for the undue benefit of foreign interests.

- Require expanded waiver applications to include more substantive details and information about potential foreign employers, including the precise nature of the role, any preexisting relationships or communications between the applicant and the prospective employer, compensation, and additional relevant information.
- Require submission of comprehensive waiver application data to Congress on a regular basis and make those reports available to the public within a reasonable time frame. This reporting should come from the Department of Defense and Department of State, and should include complete articulation of the methodology and procedures for assessing and rendering decisions on waiver applications.
- Require a retrospective analysis and subsequent report on previously approved waivers and any conflict of interest or national security concerns that were either flagged at the time and not resolved or that were flagged and adjudicated. This report should also specifically address any waivers in which the Department of State flagged [International Traffic in Arms Regulations \(ITAR\)](#) concerns, what the exact nature of those concerns were, and how they were resolved.
- Impose robust financial penalties for those retired and reserved officials who violate the law by not obtaining a waiver prior to working on behalf of a foreign interest or who have otherwise violated the rules in place around seeking employment with foreign interests.
- Require the Government Accountability Office to periodically audit the emoluments waiver system and its efficacy as well as any ongoing concerns around the potential corrupting impact of former U.S. government officials working on behalf of foreign interests.

Additional Context

The integrity of the U.S. policymaking process and those who make that policy is a constant source of concern for the American people, underscored by [extraordinarily low levels of public trust in government](#) and its ability to do the right thing for the public interest. While this lack of trust has many sources and many causes, one especially pernicious aspect of the broader challenge is the distortionary and corrupting effects of foreign influence and meddling in domestic politics and policymaking. As the world grows more chaotic and interdependent, and as authoritarianism rises across the globe, foreign entities of all kinds have ramped up efforts to shape how the U.S. will act and deploy our resources. This malignant problem is made manifest through unregistered foreign lobbying on the part of [former military generals](#) and [former federal law enforcement officials](#), undue [foreign influence at think tanks](#) and [academic institutions](#), and [foreign nations interfering](#) directly, to varying degrees, in domestic elections.

Resources

- [POGO investigation into emoluments waivers](#)
- [37 U.S.C. § 908](#) (provision of law that contains the emoluments waiver process)
- [Emoluments Clause – Article I, Section 9, Clause 8](#)
- [Washington Post investigative series on emoluments waivers](#)

Contact

Dylan Hedtler-Gaudette, Director of Government Affairs, Project On Government Oversight,
dylan.hedtlergaudette@pogo.org