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Wyrach - SSA  
UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548



OFFICE OF GENERAL COUNSEL

IN REPLY  
REFER TO:

B-103987

October 29, 1979

Richard K. Berg *REQ*  
Administrative Conference *AGC00594*  
of the United States  
2120 L Street, N. W., Suite 500  
Washington, D. C. 20037

Dear Mr. Berg:

This is in response to your September 20, 1979, letter  
requesting our comments on the recommendations contained in *Report*  
*on* "Appropriate Limits <sup>of</sup> Participation in Matters Before an  
Agency by a Former Agency Official" a report prepared by  
Professor Thomas D. Morgan of the University of Illinois. - *ID*

Professor Morgan does a commendable job in presenting a  
balanced report and pulling together the many diverse issues  
surrounding post-Federal employment activities. His recog-  
nition of the possible need to rethink Government policy as  
it relates to post-Federal employment is well taken. One  
very relevant question that Professor Morgan's report brings  
into focus is whether the Government's policy on post-Federal  
employment should be based largely on a criminal statute.

In our report "What Rules Should Apply to Post-Federal  
Employment and How Should They Be Enforced?" FPCD-78-38,  
August 28, 1978, we recognized--as does Professor Morgan--  
that the Government's policy must establish a proper balance  
between the need to protect the public from officials with  
conflicting interests and the need to hire and retain the  
most qualified persons for Government service. We pointed  
out, however, the need to develop basic information through  
which the many issues surrounding post-Federal employment  
can be evaluated. We suggested, among other things, that  
the Office of Government Ethics either monitor or establish  
an agency-implemented monitoring system to study post-Federal  
employment and define its characteristics and parameters. To  
date we can report that this work still needs to be done.

In our view the basic problem in this area is that the  
Government is confronted with a lack of information on which  
it can make meaningful judgments concerning the need for or

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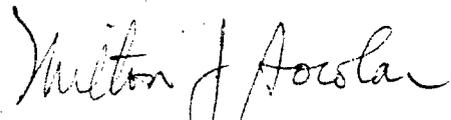
nature of rules, regulations, standards, or statutes governing the activities of former Government employees. No one knows for sure that a substantive post-Federal employment problem exists. Likewise, no one knows the extent that existing post-employment legislation inhibits recruiting and retaining public officials. Any changes to the current Government policy, as reflected in 18 U.S.C. 207, would therefore be based largely on speculation.

What is needed now is the development of information that would evaluate the effect of current Government post-employment policy on matters such as recruitment and retention and the enforceability of the criminal statute. Evaluations of this kind should provide the basis for establishing a policy that recognizes diverse situations and the potential need for administrative and civil enforcement mechanisms.

To help in the development of this information, GAO is currently examining the post-Federal employment activities of former employees of the Internal Revenue Service, Treasury, and National Science Foundation. GAO has programed work that will examine the impact of current ethics legislation on the Government's ability to recruit and retain personnel. GAO also plans to examine the enforceability of the Government's present ethics rules.

I hope that GAO's work will assist the Congress and the President in deciding on the need for a more definitive post-Federal employment policy. Also I believe that the work of others such as Professor Morgan's will stimulate thought on what the Government's policy should be.

Sincerely yours,



Milton J. Socolar  
General Counsel