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United States General Accounting Office

GAO

Report to the Chairman, Committee on Governmental Affairs
United States Senate

March 1986

DOD REVOLVING DOOR

Many Former Personnel Not Reporting Defense-Related Employment

129272

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United States
General Accounting Office
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National Security and
International Affairs Division

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March 4, 1986

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental Affairs
United States Senate

The Honorable John E. Porter
House of Representatives

This report discusses the DOD Revolving Door disclosure system, required under Title 10 United States Code Section 2397. We issued an interim report on the system on June 10, 1985 (GAO/NSIAD-85-98), which discussed only our work on compliance with the reporting requirement. This report includes more detailed information on individual compliance with the reporting requirement and also responds to your August 10, 1984, request that we

--determine the completeness and accuracy of information reports,

--suggest improvements to DOD's process for compiling and reviewing submitted reports, and

--determine the extent that former DOD personnel are aware of restrictions on post-government employment.

You also requested that we identify the number of former DOD personnel working on the same or similar projects as they worked on when they were with DOD. As agreed with your offices, this objective will be presented in a separate report.

As agreed with your offices, we will hold the report for one day before general distribution. At that time, we will send copies of this report to the Secretaries of Defense, the Army, the Navy, and the Air Force; the Director of the Office of Management and Budget; the Director of the Office of Government Ethics; interested congressional committees and staffs; and other interested parties.

Sincerely yours,

Bill W. Thurman

for Frank C. Conahan
Director

Executive Summary

The Congress has passed conflict-of-interest legislation, prohibiting certain activities by former government personnel. To provide information on former Defense personnel working for defense contractors, the Congress has also passed legislation which requires certain former Defense employees to report their defense-related employment. The Chairman of the Senate Committee on Governmental Affairs asked GAO to evaluate the reporting process by determining

- whether former Defense employees are reporting post-government employment as required, and
- what can be done to improve the reporting process.

Background

The Congress has been concerned that Defense personnel who anticipate future employment with a defense contractor might use their positions to gain favor with the contractor, or that former Defense personnel might use their contacts with former colleagues to the benefit of the contractor and to the detriment of the government.

In 1978, GAO reported that little information existed to determine whether post-federal employment represented a problem and the extent to which former officials violate post-employment laws and regulations. GAO recommended that a central ethics office develop and implement a system to determine the extent to which the post-government employment activities of former government officials may be a problem. This recommendation was never implemented.

Legislation has required former Defense personnel to report their employment if

- they were military officers—Major or Lt. Commander (O-4) and above—with 10 years of active service, or civilian employees paid at the basic rate payable for a GS-13 or above, and
- they were earning an annualized salary of $15,000 or more working for a major defense contractor (one with at least $10 million in negotiated contracts).

In the Fiscal Year 1986 Defense Authorization Act, the salary limit was raised to $25,000, and the employing contractor was changed to one with at least $10 million in any type of contract.

GAO used statistical sampling techniques to determine compliance with the reporting requirement for fiscal year 1983—the last year for which

data was available—and evaluated the Defense Department's process for reviewing and summarizing the information reported.

Results in Brief

GAO found that the original law exempted over half the former Defense personnel working in defense-related areas from reporting. The 1986 amendments expand coverage somewhat but still exclude many former Defense personnel. Further, only about 30 percent of those that GAO projected as being required to report in fiscal year 1983 did so. In addition, those who did report provided insufficient information to allow identification of a possible conflict of interest. Finally, the Defense Department does not have an adequate process for reviewing the disclosure forms.

Principle Findings

Exemptions

GAO found that, of the 11,992 employees—O-4 or GS-13 and above—who left the Defense Department and held security clearances to work with defense contractors in fiscal year 1983, more than 50 percent (6,148) were exempted from filing a disclosure form because they were not working at the plant of a major defense contractor. (See pp. 14 to 15.)

Noncompliance

Further, of the 5,844 who should have filed a disclosure form in fiscal year 1983, GAO projects that only about 30 percent filed. In a case study of employees of 8 major contractors, GAO found a higher compliance rate—46.5 percent. This likely resulted because these companies employed a greater percentage of former Air Force personnel, whom GAO found more likely to comply with the reporting requirement. Only the Air Force annually reminds retired officers of the reporting requirement. (See pp. 16 to 18.)

Disclosure Forms

The Defense Department requires that people who report provide "brief" work information on their Defense and private-sector work. While the form also instructs filers to attach additional sheets if necessary, few do so, and many comply by providing little more than job titles. GAO reviewed 85 disclosure forms and found that 38 contained only job titles. The remainder gave a brief description of duties, but the

description was insufficiently detailed to allow detection of a possible conflict of interest. (See pp. 24 to 26.)

While the 1986 amendments expand the description of duties required, GAO believes that information is also needed on the type and extent of contact that current defense contractor employees had with the contractors when they were with the Defense Department, and vice versa.

Forms Review

GAO also found that the services and Defense agencies give the completed forms only limited review because (1) the information is too general to be of value in detecting possible conflicts of interest and (2) written guidance on what to look for to identify possible conflicts of interest is generally lacking. (See p. 27.)

Recommendations

GAO recommends that the Secretary of Defense

- require the services to inform all covered former personnel annually of the requirement to report defense-related employment for 2 years after separation,
- require that reports on defense-related employment contain information on the type and extent of contact current defense contractor employees had with the contractors when they were with the Defense Department and vice versa, and
- require that the services establish a formal review process with written guidance for reviewers to use in identifying possible conflicts of interest.

Agency Comments

The Department of Defense provided official oral comments on a draft of this report and generally agreed with the findings and concurred with the recommendations. Defense noted that, in accordance with the amendments to the reporting requirement included in the Fiscal Year 1986 Defense Authorization Act, it is revising its disclosure-system standards and procedures. The actions to be taken will include issuance of interim guidance, development of a revised directive, and a complete revision of the form for collecting information and data. Defense stated that these actions will reflect the changes recommended by GAO.

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Abbreviations

DOD	Department of Defense
IG	Inspector General
R&D	Research and Development
U.S.C.	United States Code

Introduction

The Congress has long been concerned about the movement of government employees into the private sector and the movement of private-sector employees into government—the so-called "revolving door" phenomenon. The Congress has been especially concerned about Department of Defense (DOD) officers and high-level civilian employees taking jobs with defense contractors, fearing that this situation could lead to conflicts of interest. Although few allegations of post-government employment conflicts of interest have resulted in criminal prosecution, the movement of DOD employees into jobs with defense contractors can create the following perceptions, which can affect public confidence in the government:

- DOD personnel who anticipate future employment with a defense contractor might be perceived as using their position to gain favor with the contractor at the expense of the government.
- Former DOD personnel who work for a defense contractor might be perceived as using their contacts with former colleagues at DOD to the benefit of the defense contractor and to the detriment of the government.

Two criminal conflict-of-interest statutes (18 U.S.C. 207 and 18 U.S.C. 208[a]) address the above situations. DOD and the services have also established Standards of Employee Conduct which prohibit employees from using, or giving the appearance of using, their public office for private gain.[1] To provide information on the numbers of former Defense personnel working for defense contractors, the Congress passed 10 U.S.C. 2397, which requires that certain former DOD personnel who go to work for certain defense contractors file a report, disclosing their past and present employment activities. The law required reports for up to 4 years after leaving DOD. In the 1986 Defense Authorization Act, the period was reduced to 2 years. In implementing this law, DOD has required that the reports be reviewed for possible violations of law or DOD directive.

In a 1978 report, What Rules Should Apply to Post Federal Employment and How Should They Be Enforced? (FPCD-78-38, Aug. 28, 1978), we reported that little information existed to determine whether post-federal employment represented a problem and the extent to which former officials violate post-employment laws and regulations. We recommended that a central ethics office, in collaboration with other executive-branch departments and agencies, develop and implement a system

[1]Executive Order 11222, dated May 8, 1965, sets forth executive-branch policy on employee ethical conduct and requires agencies to issue implementing Standards of Employee Conduct.

to determine the extent to which post-federal employment activities of former government officials may be a problem. The Office of Government Ethics, created shortly after the report was issued, has never acted upon this recommendation.

In August 1984, the Chairman, Subcommittee on Energy, Nuclear Proliferation, and Government Processes, Senate Committee on Governmental Affairs, asked us to review the extent to which former DOD personnel were complying with this reporting requirement. The Chairman's interest stemmed from reports that Hughes Aircraft Company had hired a large number of former DOD personnel and that this practice was not unique to Hughes. Since then, the Chairman of the full Senate Committee on Governmental Affairs, asked us to continue work at his request. Further, the Chairman of the Subcommittee on Investigations, House Post Office and Civil Service Committee, and Congressman John E. Porter have asked to be considered cosponsors of the request because of their interest in the revolving door and its effect on DOD operations.

Conflict-Of-Interest Laws

Section 207 of Title 18 United States Code restricts the representational activities of former government officers and employees working in the private sector in the following ways:

- For 2 years after leaving government employment, senior officers and employees may not assist in the representation of another person by personal presence at an appearance before the government on any particular matter in which they personally and substantially participated while in government.
- For 1 year after leaving federal service, senior officers and employees may not represent anyone other than the United States before their former agency on any particular matter pending before, or of substantial interest to, the agency.
- Other former government personnel may never serve as another person's representative to the government on a case, contractual matter, or other similar application or proceeding in which they participated "personally and substantially" while in government.
- For 2 years after leaving government service, other former personnel may not serve as another person's representative to the government on any particular matter which was actually pending under their "official responsibility" in their last year of service.

The Statute does not prevent government personnel from accepting employment with firms with whom they dealt on behalf of the government but focuses, instead, on representational activity.

Further, Section 208(a) of Title 18 United States Code requires government personnel to refrain from personal and substantial participation as government personnel through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any particular matter in which they, their spouses, minor children, partners, or businesses with which they are connected, or are seeking employment, have a financial interest.

The 1986 Defense Authorization Act contains a new requirement. Section 923 of the Act requires that if certain DOD personnel—civilians paid at a rate equal to or greater than the base rate payable for a GS-11 and active military in a pay grade of O-4 or above—who participate in the performance of a procurement function in connection with a contract awarded by DOD contact or are contacted by the defense contractor awarded the contract regarding future employment, they must report the contact to their supervisor and to the designated agency ethics official. Until the employment opportunity is rejected, they must disqualify themselves from the performance of all procurement functions relating to contracts with that contractor. Failure to report or to disqualify themselves can result in an administrative penalty of up to $10,000 and a 10-year prohibition on being employed by the contractor concerned.

Reporting Requirement

The requirement that certain former DOD personnel disclose defense-related employment was introduced in 1969. Stating that "sunlight is a great disinfectant," the sponsor argued that legislation requiring disclosure would make information on the revolving door available to the public and to the Congress.

The law, codified at 10 U.S.C. 2397, and amended by the Defense Authorization Act of 1986, requires that certain former DOD personnel report their defense-related employment. To implement this law, DOD Directive 7700.15 requires former employees to file a disclosure form (DD-1787) with their last employing service or defense agency. (See app. I for a list of the amendments to the reporting requirement contained in the Defense Authorization Act of 1986.)

Objectives, Scope, and Methodology

We were requested to

- examine the degree of compliance with the requirement of 10 U.S.C. 2397 that former DOD personnel report employment with major defense contractors,
- determine the accuracy and completeness of the information reported,
- suggest improvement to DOD's process for compiling and reviewing submitted reports,
- determine the extent that former DOD personnel are aware of post-government-employment restrictions, and
- identify the number of former DOD personnel working on the same or similar projects as they worked on when they were with DOD.

To determine compliance with the reporting requirement, we adopted a dual approach. First, we conducted a study of eight major defense contractors. (See app. II for a list of the contractors and our selection criteria.) We adopted this approach because of the large number of firms (about 600) that would be covered by the definition of "major defense contractor" and the difficulty of obtaining employee information from each of these firms.

To relate our work on the eight contractors to the universe of personnel leaving DOD and going to work for major defense contractors, we obtained information from the Defense Investigative Service on persons holding security clearances with all private companies and compared that to a DOD list of personnel who left DOD between October 1, 1979, and September 30, 1983. The holding of a security clearance is a good indication that the individual was employed because the process for obtaining a security clearance is initiated by the company after an individual is hired. Furthermore, the Defense Investigative Service information should indicate when the clearance for the individual to work at the company was terminated. The information we used reflected data as of March 1985.

Former DOD employees filed disclosure forms for fiscal year 1983 during fiscal year 1984. To identify the total number of employees with security clearances who should have filed a disclosure form for fiscal year 1983, we excluded employees holding security clearances with other than major defense contractors. Based on a sample from that universe, we projected an overall rate of compliance. To provide timely information on compliance, we issued an interim report—Extent of Compliance With DOD's Requirement to Report Defense Related Employment (GAO/NSIAD-85-98, June 10, 1985)—based on security-clearance

holders. This interim report was issued prior to completing our work on the eight major contractors.

Our examination of employees with security clearances provided a comparative ratio that enabled us to judge how the compliance ratio we developed for our eight contractors related to the total universe of employees who should have filed. To make this comparison, we assumed that employees without security clearances would have filed in about the same ratio as those with security clearances or that employees without security clearances would represent only a small segment of the universe.

We based the information obtained in each case on computerized records. We were unable to evaluate the reliability of these records because of time constraints and our lack of access to the contractors' computerized data bases.

To determine the accuracy and completeness of the information reported, we reviewed 77 official personnel folders of 85 defense contractor employees. The 85 were randomly selected from those who filed disclosure forms for fiscal years 1981, 1982, and 1983. (We were unable to locate personnel folders for 8 of the sample.)

To determine what changes could improve DOD's process for compiling and reviewing submitted forms, we reviewed the DOD process for collecting, reviewing, and reporting the information on the disclosure form; examined the form itself; examined DOD and service implementing regulations on the review process; and discussed the process and the use of the information with officials of the Army, Navy, Air Force, Marine Corps, and Office of the Secretary of Defense. We also reviewed a September 1984 DOD Inspector General (DOD/IG) report on the reporting process.

We discussed the issues involved in post-government-employment restrictions with DOD officials, officials of the Office of Government Ethics, and representatives of the selected contractors involved in our case study.

To determine the extent to which former DOD personnel are aware of post-government-employment restrictions, we selected a second statistical sample of former personnel we identified as working for major defense contractors. We mailed a questionnaire to each of the participants in the sample and analyzed the results.

Because of difficulties in obtaining information on whether former DOD personnel were working on the same or similar projects as they worked on when they were with DOD, we agreed to address this objective in a later report.

Our field work was conducted in accordance with generally accepted government audit standards.

Many Former DOD Personnel Do Not Report Defense-Related Employment

To be an effective mechanism for disclosing information on the employment activities of former DOD personnel, the reporting requirement should cover personnel whose movement to private-sector jobs could create a possible conflict of interest. Furthermore, those who are required to report must comply with the requirement. We found that the current reporting requirement has not been an effective disclosure mechanism because (1) many people who leave DOD and become employed by defense contractors are not required to report that employment and (2) large numbers of former DOD personnel who are required to report have not done so.

Disclosure Law Exempts Many Employees

Before the fiscal year 1986 amendments, legislation required former DOD personnel to report only if

- they were military officers, O-4 (Major or Lt. Commander) and above with 10 years of active service, or former civilian employees paid at the basic rate payable for a GS-13 or above, and
- they earned an annualized salary of $15,000 or more working for a major defense contractor (one with at least $10 million in negotiated contracts).

The fiscal year 1986 amendments require that (1) employees receiving an annualized salary of $25,000, rather than $15,000, report, and (2) employees of contractors with $10 million in any type of contract (rather than $10 million in negotiated contracts) report.

We believe the impact of the salary and years-of-service exemptions to be minimal. First, personnel leaving DOD at or above a military O-4 or a GS-13 are earning over $37,000 a year. For fiscal year 1985, the civilian GS-13 base pay was $37,599, and the average cash payment for a military O-4 was $40,243. It is reasonable to assume that few of these individuals would move into positions paying less than $25,000. Second, based on the results of our awareness survey, we are able to project that probably less than 1 percent and certainly less than 4.3 percent of the 4,495 officers we identified as having to report in fiscal year 1983 had less than 10 years of service.[2]

[2]We are unable to estimate accurately the proportion of our universe with less than 10 years of service because of an inadequate response rate for non-retired former military officers. The 4.3 percent represents a maximum value arrived at by assuming that all military O-4s who left without retired status had less than 10 years of service.

The other two exemptions, however, have some impact. The restriction on the dollar value of DOD business of the employing contractor and that on grade or rank may exempt certain personnel whose post-employment activities should also be disclosed.

Limit to Major Contractors

Restricting the reporting requirement to those who go to work for major defense contractors substantially reduces the number of employees required to report. We found that 11,992 of 58,045 personnel (military O-4 and civilian GS-13 and above) who left DOD during fiscal years 1980 through 1983 worked at a defense contractor's plant in fiscal year 1983 (indicated by the fact that they held security clearances). However, as can be seen in table 2.1, less than 50 percent (5,844) of these personnel were cleared to work at the plants of major defense contractors. As a result, the majority were not required to report.

Table 2.1: Military (O-4 and Above) and Civilian (GS-13 and Above) Separations During Fiscal Years 1980 to 1983

	Fiscal year left DOD				
	1980	**1981**	**1982**	**1983**	**Total**
Left DOD	17,655	12,919	13,789	13,682	**58,045**
Left DOD and obtained security clearance[a]	3,383	2,545	2,963	3,101	**11,992**
Left DOD and probably required to report in fiscal year 1983[b]	1,731	1,332	1,593	1,188	**5,844**

[a]Employee held a personnel security clearance to work at a facility of a defense contractor.

[b]Employee held a personnel security clearance to work at a facility of a company having at least $10 million in negotiated defense contracts. Only those individuals who held a security clearance in fiscal year 1983 are included.

Limit on Grade and Rank

We did not gather information on the number of people below civilian GS-13 or military O-4 leaving DOD and going to work for defense contractors and, therefore, cannot determine what effect this restriction has on reporting. However, in some instances, these individuals are in positions that require them to deal with defense contractors, or they are involved in the procurement process. For example, for fiscal year 1983, 46 percent of Navy military procurement contracting officers were below military O-4, and 70 percent of DOD civilian logistics management personnel were below GS-13.

Many Former DOD Personnel Did Not Report in Fiscal Year 1983

Based on our analysis of a population derived from all personnel holding security clearances to work at defense-contractor facilities, we project that only about 30 percent of those who were probably required to report in fiscal year 1983 did so. In addition, our review of former DOD personnel working for eight major defense contractors showed that only about 46.5 percent reported as required in fiscal year 1983.

Compliance Among Security-Clearance Holders

In our review of security-clearance holders, we identified 5,844 employees who probably should have reported defense-related employment for fiscal year 1983. Based on our review of a statistical sample, we project that 28.9 percent, or 1,691, of the 5,844 actually did file. We are 95-percent confident that the true filing rate for our universe was between 23.9 and 33.9 percent. Table 2.2 shows our projected rates of compliance for each of the military services and for civilian employees.

Table 2.2: Projected Rate of Compliance With Requirement to Report Defense-Related Employment

	Likely required to file	Projected no. who filed	
Army	1,013	138	(13.6%)
Navy	1,310	236	(18.0%)
Marine Corps	248	46	(18.5%)
Air Force	1,924	1,166	(60.6%)
Civilians	1,349	105	(7.8%)
Total	**5,844**	**1,691**	**(28.9%)**

Note: The rate of compliance is based on the population we identified as likely required to file an employment report. See appendix III for the range of projections based on our sample information.

While our approach provided a method for estimating compliance, it had limitations. First, we did not assess the reliability of the DOD computerized administrative records from which we took the information we used to develop our universe. Further, our universe was approximate because it did not include former DOD personnel who went to work for major defense contractors but did not obtain security clearances and may not have included consultants whose security clearances were held through the consulting firm for which they worked. These employees might also have been required to report. Also, the universe could have included some employees holding security clearances to work at a facility of a major defense contractor who were actually employed by a subcontractor that did not have $10 million or more in negotiated contracts. These employees would not have been required to report. In addition,

some employees in the universe might have been paid an annualized salary of less than $15,000.

We could not determine the extent to which these factors affected our projections. However, the data obtained from the eight contractors we surveyed showed that the number of former DOD personnel without security clearances represented only a small number of such personnel working for the contractors and that these personnel appeared to report employment at a lower rate than those with security clearances. The number of those without security clearances required to report employment for these eight firms represented about 13.2 percent (157 out of 1,192) of all former DOD personnel working for the contractors in fiscal year 1983. Further, as table 2.3 shows, only 35.6 percent of these employees reported employment as required.

Table 2.3: Comparison of Reporting by Security and Non-Security Clearance Holders in Eight Firms During Fiscal Year 1983

	Reported employment		Did not report employment		Total
Held security clearance	499	(48.2%)	536	(51.8%)	**1,035**
Did not hold security clearance	56	(35.6%)	101	(64.4%)	**157**
Total	**555**	**(46.6%)**	**637**	**(53.4%)**	**1,192**

This data, while providing some insight into the number of former DOD personnel working for defense contractors who did not hold security clearances and the rate at which these personnel reported employment, relates strictly to the eight contractors we surveyed. It is not projectable to all former DOD personnel who worked for defense contractors.

We could not obtain information on the number of consultants who worked for defense contractors who would have been required to report. To that extent, our projected total number required to report is understated.

We do not believe that excluding subcontractor employees and major contractor employees who earned less than $15,000 a year significantly affected our results. Officials of the Defense Investigative Service told us that it would have been unusual for subcontractor employees to hold a security clearance through the facility of a major contractor. The normal situation would have been for employees to hold a security clearance through their own employer and to maintain a copy of the clearance on site where they were working. Further, because personnel leaving DOD at the GS-13 or O-4 level were earning more than $30,000

annually when they left DOD, few probably would have taken jobs paying less than $15,000 a year.

Compliance of Employees of Eight Major Defense Contractors

In our study of eight major defense contractors, we identified 1,192 employees who were former DOD personnel and should have reported their fiscal year 1983 employment. However, in fiscal year 1983, only 555, or 46.6 percent, did so. This percentage was higher than that for our universe as a whole.

While we are unable to reconcile the difference completely, several factors may account for the higher level of reporting in our eight contractors. First, we chose the contractors both because of the high dollar value of their DOD contracts and because they had the greatest number of employees reporting in fiscal years 1981 to 1983. (See app. II.) Second, each of the contractors tried to remind employees that they were required to report defense-related employment. Third, the contractors, as a whole, hired more former Air Force personnel than other service personnel. The eight contractors hired 670 former Air Force personnel—56.2 percent of the total number of former DOD personnel they hired. As shown in table 2.4, former Air Force personnel report at a significantly greater rate than former personnel of the other services (perhaps because the Air Force annually sends a letter to all retired officers, reminding them of the reporting requirement). For the eight contractors, former Air Force personnel represented 82.5 percent of all filers.

Table 2.4: Comparison of Reporting by Former Air Force Personnel and Other Personnel

	Reported employment		Did not report employment		Total	
	Number	Percent	Number	Percent	Number	Percent
Former Air Force personnel	458	82.5	212	33.3	670	56.2
Former personnel of other services or DOD agencies	97	17.5	425	66.7	522	43.8
Total	**555**	**100.0**	**637**	**100.0**	**1,192**	**100.0**

Reporting Requirement Has Not Been Enforced

The law formerly subjected an employee who failed to file a disclosure form to a fine of not more than $1,000 or imprisonment for not more than 6 months, or both. We found no instances of any cases being referred to the Attorney General for prosecution and no instances of

prosecutions for noncompliance under the law. The law as amended now subjects an employee who does not comply with the reporting requirement to an administrative penalty of not more than $10,000. The criminal sanction has been dropped.

Before the fiscal year 1986 amendments, the law governing the reporting of defense-related employment required DOD only to compile the reports, keep them available for public review, and transmit them to the Congress. The law did not require DOD to monitor compliance with the reporting requirement or to determine the level of compliance. As a result, DOD did not determine the extent to which former personnel complied with the law. DOD did, though, inform contractors each year that their employees were subject to the reporting requirement and asked those contractors to inform their employees. However, it did not follow up to see what steps the contractors took.

Amendments to the law included in the fiscal year 1986 Defense Authorization Act require the Secretary of Defense to determine whether an individual has failed to file a required report. The determination is to be made on the record after opportunity for a hearing. This determination is subject to judicial review. DOD officials told us that they plan to monitor compliance with the requirement as a result of this section of the Act.

Awareness of Reporting Requirement by Former DOD Personnel

To determine awareness of post-government employment laws and regulations, we surveyed the retired personnel who left DOD in fiscal years 1980 through 1983 and who held security clearances to work for major defense contractors. About 97 percent of the respondents indicated that they were aware of the requirement to file a disclosure form. However, only about 58 percent indicated that they were aware of the specific requirement to file when employed by a major contractor.

A total of 95 percent of the retirees said that they obtained information about post-government-employment regulations from the services or other DOD components. DOD provides information to personnel about post-employment regulations at various times, such as when they enter active military service, when they retire, and after they retire (through the defense media). About 70 percent of retirees indicated that they learned about post-employment regulations at some time during the year before they retired. About 90 percent indicated that they received written materials about the regulations. Respondents also cited group

briefings, individual counseling, and the defense media as their source of information on post-government-employment regulations.

With regard to the adequacy of the post-employment information provided by DOD, about 78 percent of the retirees found the information to be "very" or "generally" clear and comprehensive. About 15 percent regarded it to be of marginal clarity and comprehensiveness, and the remainder found it to be unclear or limited in scope.

We are unable to say with certainty why such a large discrepancy exists between the level of awareness and the degree of compliance with the reporting requirement. However, two factors which may contribute to the differences are (1) possible confusion over what forms need to be filed after departure from DOD, and (2) the influence that annual reminders have on reporting compliance.

Each of the services is required to advise departing personnel of the need to file a report of DOD and defense-related employment (Form DD 1787), as well as to advise retiring officers of the need to file a Statement of Employment for Regular Retired Officers (Form DD 1357). Both of these forms require information about post-government employment; however, they are used for different purposes. The 1357 form is used specifically to determine compliance with restrictions on certain selling activities of retired regular officers.

Although 58 percent overall indicated awareness of the requirement to report when employed by a major contractor, this rate differed among the services. Both the Army and the Air Force had comparable rates of awareness of this criterion—75 and 79 percent, respectively—while the rates for the Navy and Marine Corps were substantially lower—43 and 41 percent, respectively.

Instructions from the Secretary of the Navy provide that periodic reminders of the 1787 form be disseminated to retired Navy and Marine Corps officers, along with reminders of the 1357 form where appropriate. However, our review indicated that the Navy places more emphasis on the 1357 form. For example, the Navy mails the 1357 form periodically to individual retirees, while the 1787 reminder has only mass publication. The focus on the 1357 form could lead recipients to believe that they have met all filing obligations by submitting it.

Reminder notices about the need to file the 1787 form may also influence filing compliance. The Air Force is the only service that sends individual notices reminding military retirees of the need to file a 1787 form. While the Army and Air Force had comparable rates of awareness of the criteria on when to file a 1787, the Air Force had the highest filing-compliance rate of all services (61 percent). (The Marine Corps and Navy rates were 18 and 19 percent, respectively; and the Army rate was 14 percent.)

Conclusions

The law requiring that certain former DOD personnel report defense-related employment has not been an effective disclosure mechanism nor an effective mechanism for detecting possible conflicts of interest for two reasons. First, the law exempts many former DOD personnel from reporting. Second, many of those now required to report have not done so.

Certain exemptions to the reporting requirement significantly reduce the number required to file. For example, the law exempts employees of defense contractors with less than $10 million in contracts (previously $10 million in negotiated contracts). We believe that the amount of business a contractor does with DOD should not be a major factor in deciding whether the contractor's employees have a possible conflict of interest.

The law also exempts those with a salary of less than $25,000 (previously $15,000) a year and military officers with less than 10 years of service. In our opinion, these two exemptions probably have minimal impact. Eliminating them would not significantly affect the numbers of persons required to report but would make the reporting requirement easier to administer.

In addition, the law exempts DOD personnel paid at a rate lower than the base rate payable for a GS-13 or of a military rank lower than O-4 from the reporting requirement. We could not identify the number of employees affected by this exemption, and we have no basis for measuring its impact. However, some of these personnel may deal with contractors or take part in the procurement process and, consequently, could be in situations which create the potential for conflicts of interest.

One option we considered to improve the effectiveness of 10 U.S.C. 2397 as a disclosure mechanism was to recommend expanding coverage of the reporting requirement to all former DOD personnel who were in positions that could be considered "at risk" in terms of possible conflicts of

interest or the appearance of conflicts of interest. This would require amending the law by deleting the requirement that former personnel go to work for a contractor that has a specified dollar value of contracts, deleting the restriction relating to annual salaries and military years of service, and providing authority for DOD to specify positions below GS-13 or military O-4 whose incumbents could be "at risk" in terms of possible conflicts of interest or the appearance of conflicts of interest.

While this option would improve the effectiveness of the reporting requirement as a disclosure mechanism in that required disclosure would be more complete and comprehensive, we cannot say that the increased disclosure would result in identification of possible conflicts of interest. As a result, we believe that, prior to significantly expanding coverage, DOD should implement the improvements to the law included in the Fiscal Year 1986 Defense Authorization Act and the additional improvements we are recommending in this report and then, based on experience with the improved disclosure system, a decision could be made on whether to expand the reporting requirement to cover additional former DOD personnel.

Another problem is that many employees are not complying with the reporting requirement. We found that only about 30 percent of the employees required to report in fiscal year 1983 did so. This lack of compliance with the law may have been due to such factors as DOD's lack of emphasis on reporting, no DOD follow-up on nonreporting, and some employees' confusing this requirement with another reporting requirement.

In our opinion, based on the significantly higher compliance rate of former Air Force personnel—because the Air Force notifies retired officers annually of the requirement—DOD could significantly increase employees' compliance by periodically informing them of the reporting requirement.

Recommendation

We recommend that the Secretary of Defense require the services to inform all covered former personnel annually of the requirement to report defense-related employment for 2 years after their separation.

Agency Comments

DOD concurred with the recommendation. DOD is currently developing procedures—to be used for the fiscal year 1986 reporting period—for periodically informing former DOD personnel of the reporting requirement.

However, DOD stated that our statistics and conclusions on compliance should be approached with caution because of the limitations on the data we used. DOD stated that, because we used statistical techniques to construct a hypothetical data base for our analysis, absolute conclusions from this analysis are not possible.

The DOD data bases we used represent the best available data on which to assess compliance. Furthermore, our study of eight major defense contractors supported the results of our analysis. While we have acknowledged certain limitations on the data included in the analysis, we believe that our conclusions concerning the overall level of compliance are valid.

Adequate Disclosure Requires Detailed Information

An effective implementation of the law requiring former DOD personnel to report defense-related employment would require that the information disclosed be sufficiently detailed to enable a reviewer to identify whether a possible conflict of interest exists. DOD's present implementation, while conforming with the letter of the law, does not meet this criterion because it asks former personnel to provide only general information on their past and current employment. As a result, reviewers are unable to identify possible conflicts of interest.

In an effort to strengthen reporting of post-government employment, the Congress, in the Fiscal Year 1986 Defense Authorization Act, deleted the requirement for "brief" information and substituted a requirement for a description of work performed for a defense contractor and any similar work performed while at DOD.

DOD's Directive on Reporting Procedures

To implement the reporting requirement prior to the fiscal year 1986 change, DOD issued Directive 7700.15, "Reporting Procedures on Defense Related Employment." This Directive summarizes the law, provides an example of the form that former or current DOD personnel are to use to report on their employment activities, sets time frames for submitting the forms, and establishes responsibility for collecting and summarizing the forms. The Directive also requires that the services and defense agencies review the information submitted for any possible violations of law or Directive, and refer any apparent violation to the appropriate authorities.

Disclosure Form Asks for Few Details

To enable a reviewer to identify at least a possible conflict of interest, a disclosure form should require former DOD personnel to disclose whether, when they were with DOD, they

- had official contact with defense contractors by whom they are now employed, or
- had worked on projects similar to those on which they were now working.

The present disclosure form (DD-1787) does not elicit this type of information. (See fig. 3.1.) We took a random sample of 85 completed forms in order to examine the adequacy of the information provided and to determine whether the information was complete and accurate. This sample was drawn from the contractors we selected to review for their employees' compliance with the law. (See app. II for the list of contractors.)

Figure 3.1: Disclosure Form

REPORT OF DOD DEFENSE RELATED EMPLOYMENT
AS REQUIRED BY
PUBLIC LAW 91 - 121

Form Approved
OMB No. 0704-0047

1. NAME *(Last - First - Middle)*	2. CURRENT HOME ADDRESS *(Street - City - State - Zip)*	3. SOCIAL SECURITY NO.

4. REPORTING CATEGORY *(Check appropriate box and enter in space provided the military grade, civilian grade or annual DoD salary).*

A. ☐ RETIRED MILITARY OFFICER - MAJ/LT. CMDR OR ABOVE _____

B. ☐ FORMER MILITARY OFFICER - MAJ/LT. CMDR OR ABOVE _____

C. ☐ FORMER CIVILIAN EMPLOYEE WHOSE SALARY WAS EQUAL TO OR ABOVE MINIMUM GS-13 DURING THREE YEARS PRECEDING TERMINATION OF SERVICE WITH DOD _____

D. ☐ FORMER EMPLOYEE OF, OR CONSULTANT TO DEFENSE CONTRACTOR WHO DURING LAST FISCAL YEAR WAS EMPLOYED BY DOD AT SALARY EQUAL TO OR ABOVE MINIMUM GS-13 SALARY _____

Items 5 thru 10 apply to reporting catergories A, B and C ONLY

5. NAME AND ADDRESS OF DEFENSE CONTRACTOR EMPLOYER(S)

6. DATE(S) OF ACCEPTANCE OF EMPLOYMENT WITH DEFENSE CONTRACTOR EMPLOYER(S) *(If no longer employed by a defense contractor employer give inclusive date of all such employment)*

7. DATE OF SEPARATION FROM ACTIVE DUTY OR TERMINATION OF DOD EMPLOYMENT

8. NAME, IN DETAIL, OF LAST AGENCY OF DOD BY WHICH EMPLOYED

9. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF WORK PERFORMED DURING LAST THREE YEARS OF YOUR SERVICE WITH DOD.

10. POSITION TITLE(S) AND BRIEF DESCRIPTIONS OF WORK PERFORMED FOR DEFENSE CONTRACTOR EMPLOYER(S).

Items 11 thru 16 apply to reporting category D ONLY

11. NAME, IN DETAIL, OF DEPARTMENT OF DEFENSE AGENCY BY WHICH EMPLOYED AT ANY TIME DURING THE LAST FISCAL YEAR

12. DATE ACCEPTED DOD EMPLOYMENT

13. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF DUTIES WITH DEPARTMENT OF DEFENSE EMPLOYER DURING LAST FISCAL YEAR.

14. NAME(S) OF DEFENSE CONTRACTOR(S) BY WHOM YOU WERE EMPLOYED OR WHOM YOU SERVED AS A CONSULTANT OR OTHERWISE.

15. INCLUSIVE DATES OF EMPLOYMENT BY, OR SERVICE WITH, DEFENSE CONTRACTOR EMPLOYER(S)

16. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF WORK PERFORMED FOR DEFENSE CONTRACTOR(S)

17. I CERTIFY THE ABOVE INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

_____
SIGNATURE

(If additional space is required, attach a continuation sheet.)

We found that the information given by former DOD personnel was generally accurate and complete in that information was provided for each item on the form. However, the description of duties included only a job title in 38 instances. Table 3.1 shows some typical responses. On none of the forms we examined was the work-history information adequate to determine whether a potential conflict of interest existed.

Table 3.1: Typical Responses Given on Disclosure Forms

Position at DOD	Position with contractor
"Plans and Programs Officer, Responsible for planning."	"Member of the Quality and Reliability Staff IV. Quality Engineer for development, implementation and maintenance of a software Quality Assurance program."
"Head, Personnel Resources Branch. All aspects of human resource and personnel services."	"Project Control Administrator. Analyze costs and expenditures of personnel assets as related to proposed and projected budgets."
"Deputy Commander for Maintenance."	"Senior Specialist for Proposals. Help prepare data for answers to proposals."
"Deputy Commander, R&D Center, Tank Automotive Command."	"Manager, Integrated Logistics Support. Manage logistics for products produced by employer."
"System Engineer: Performed studies and analyses for command, control and communication systems requirements and implementation approaches. Estimated program cost, schedule and feasibility."	"System Engineer/Deputy Project Manager: Direct day-to-day activities of project to provide hardware for a DOD program."

One reason for the lack of specificity of information given was that the law required only a brief description of work performed for DOD and the defense contractor, and the form asks only for "Position Title(s) and Brief Descriptions of Work Performed." Furthermore, providing only job titles is not discouraged by the services. For example, the Army regulation on "Standards of Conduct" provides an example of a completed disclosure form, showing only a job title in response to the request for a description of duties.

Another reason for the lack of specificity is that the form provides very little space for the information. The filers seem to interpret this to mean that they need give only the information that would fit into this space. Although the form does say, at the bottom, that "If additional space is required, attach a continuation sheet," only five of the filers in our sample did so. A forms-design specialist told us that this is normal because people generally take spacing on a form as a limit to the information they provide.

Disclosure Forms Are Given Limited Review

To implement the DOD Directive, each service and defense agency has at least one organization that reviews the disclosure forms. These organizations summarize the data on the disclosure forms and forward the summaries to the Office of the Secretary of Defense. The Office of the Secretary of Defense performs no review function but merely combines the data into a summary report (which lists the filers by service and by contractor) and a consolidated report (which gives the number of filers by service).

The review that the services and defense agencies give the completed forms is usually little more than a clerical one: They review the form to determine whether the person is required to file and whether the form is complete. Reviewers told us that, although they also review the form for violations of the conflict-of-interest laws, the information provided on the disclosure form is so general that the review is of little value. Even with more detailed information, however, reviewers would be unable to review the forms adequately because few organizations have written guidance on what to look for to identify potential violations. (Only the Navy civilian group provides reviewers with a comprehensive checklist of the various conflict-of-interest laws.)

Given this situation, it is not surprising that few potential problems have been uncovered. The Navy civilian group has so far detected only one potential violation, which was forwarded to a higher command who obtained additional information from the individual to resolve the question. The other service groups told us that they could not recall referring any cases to their legal offices to determine whether a potential violation had occurred.

DOD/IG Also Found Disclosure Form and Review Process Inadequate

At the request of the Chairman, Subcommittee on Energy, Nuclear Proliferation, and Government Processes, the DOD/IG also evaluated DOD's disclosure form and review process. In a September 1984 report, the IG concluded that the "current form makes it difficult to relate past DOD employment to a person's current position with a DOD contractor because, at times, it allows people to provide nonspecific answers...." Consequently, the IG concluded that DOD should develop and use a more effective form and that the various DOD organizations should review the disclosure forms for possible conflicts of interest. The report did not contain any specific recommendations.

Conclusions

DOD's current disclosure system does not provide for sufficient information to be of use in identifying indications of potential conflicts of interest. Furthermore, the various DOD organizations review the forms primarily to determine whether the employee reporting meets the criteria for reporting and has filled out the form completely. They have little guidance as to what to look for to identify possible conflicts of interest.

While the 1986 amendment requiring some additional detail is a step in the right direction, we believe that, in order to identify possible conflicts of interest, information is also needed on the type and extent of contact that current defense contractor employees had with the contractors when they were with DOD, and vice versa.

Recommendations

We recommend that the Secretary of Defense

- require that defense-related employment reports contain information on the type and extent of contact current defense contractor employees had with the contractors when they were with DOD, and vice versa; and
- require that the services establish a formal review process with written guidance for reviewers to use in detecting possible conflicts of interest.

Agency Comments

DOD concurred with the recommendations. DOD is currently redesigning its disclosure form to include a more comprehensive description of former employees' duties and contacts. In addition, DOD is revising its form-review standards. The new form and revised review standards should be available for use in the fiscal year 1986 reporting period.

Fiscal Year 1986 Amendments to the Reporting Requirement

The Defense Authorization Act of 1986 included the following amendments which affect the reporting requirement:

- The definition of major defense contractor is changed to include all contractors with $10 million or more in any type of contract with DOD, not just negotiated contracts.
- Individuals need no longer file an annual report but must file only one report within 90 days of when they accept employment and then subsequent reports only if their duties change significantly.
- The period for which reports are required is changed from the current period of up to 4 years to 2 years from the date of separation from DOD.
- Individuals are required to file only if they make $25,000 or more a year, rather than $15,000 or more.
- The penalty for not filing a required report is changed from a criminal penalty ($1,000 fine and/or 6 months in prison) to an administrative fine of up to $10,000, as determined by the Secretary of Defense. The law requires a full hearing on the record and provides for judicial review.
- The information required to be reported was increased from a "brief" description of duties to a description of the work performed for the contractor and a description of any similar work for which the employees had at least partial responsibility as an officer or employee of DOD.
- The period of time for which a description of duties while at DOD is required was reduced from the last 3 years of employment with DOD to the last 2 years.
- Individuals must now include in their reports a description of any disqualification action they took relating to the defense contractor during the 2 years before they accepted employment with the contractor.

Selection of Contractors for Study

We selected the following nine contractors from the top 100 companies having prime contracts awarded in fiscal years 1981, 1982, and 1983. These companies had 35 or more employees submitting the disclosure form each year. The nine contractors ranged in size from the largest to the 26th largest defense contractor. Eight of the nine contractors selected provided employee data for at least the defense-related segments of the firm. (Hughes Aircraft Company would not provide us any of the requested information.) We accepted limited data in some cases because the contractors' data systems were decentralized, and providing information for the entire firm would have taken an inordinate amount of time.

The Boeing Company

The Boeing Company is considered to be one of the world's major aerospace firms. In fiscal year 1983, Boeing had $4.4 billion in contracts with DOD. In addition to producing military aircraft, Boeing also supplies DOD with missile systems and a variety of electronic and communication equipment.

Information reported for the Boeing Company in this review is based on personnel data obtained from five of its seven company segments:

- Boeing Corporate Headquarters,
- Boeing Marine Systems,
- Boeing Commercial Airplane,
- Boeing Aerospace, and
- Boeing Military Airplane.

General Dynamics Corporation

General Dynamics Corporation, through its divisions and subsidiaries, engages in the design, engineering, development, and manufacture of various products for DOD. These include military aircraft, tactical missiles, gun systems, space systems, submarines, and electronics. Its defense business totaled $6.8 billion in fiscal year 1983, making General Dynamics the largest defense contractor.

Information reported for General Dynamics Corporation is based on personnel data obtained from the following five of its seven corporate divisions and corporate headquarters:

- Convair Division,
- Electronics Division,
- Fort Worth Division,

- Pomona Division, and
- Electric Boat Division.

Hughes Aircraft Company

Hughes Aircraft Company would not provide us with requested information. In 1983, Hughes Aircraft ranked as the ninth largest defense contractor with $3.1 billion in DOD business.

Lockheed Missiles and Space Company, Inc.

In fiscal year 1983, the parent corporation, Lockheed, was ranked as the sixth largest DOD contractor supplying products and services, totaling $4.0 billion. Lockheed Missile and Space Company, Inc., accounted for about $1.5 billion in defense contracts. Lockheed produces missiles, space systems, and military aircraft, and also provides aerospace support and related services.

Information reported for Lockheed Corporation is based on personnel data obtained from the Lockheed Missiles and Space Company, a subsidiary of Lockheed Corporation.

Martin Marietta Corporation

Martin Marietta is a technology-intensive corporation that provides DOD with a variety of strategic, tactical, and electronic systems. Its defense-contract business amounted to $2.3 billion in fiscal year 1983.

Information reported for Martin Marietta Corporation is based on personnel data obtained from Martin Marietta Aerospace, the largest of three company segments.

Mcdonnell Douglas Corporation

McDonnell Douglas is a major aerospace firm that produces a number of military aircraft and missile systems for DOD. In fiscal year 1983, McDonnell Douglas ranked as the second largest defense contractor, having $6.1 billion in contracts with DOD.

Information reported for McDonnell Douglas Corporation is based on personnel data obtained from all company segments.

Northrop Corporation

Northrop is principally involved in the design, development, manufacture, and sale of aircraft and subassemblies. Northrop contracts with DOD in fiscal year 1983 totaled approximately $847 million.

Information reported for Northrop Corporation in this review is based on personnel data obtained from all company segments except those highly classified.

Rockwell International Corporation

Rockwell is engaged in the research, development, manufacture, and marketing of a wide range of products and services in the aerospace and electronics field. Rockwell held contracts with DOD totaling $4.5 billion in fiscal year 1983, making the company the third largest defense contractor.

Information reported for Rockwell International Corporation is based on personnel data obtained from three of its six company segments.

- Defense Electronics Operations,
- North American Space Operations, and
- North American Aircraft Operations.

TRW, Inc.

TRW is a diversified, multinational, technically oriented company. It supplies DOD with electronics systems, equipment, and support services for defense and space applications. TRW had $1.1 billion in defense contracts in fiscal year 1983.

Information reported for TRW, Inc., is based on personnel data obtained from the defense portion of TRW's Electronics and Defense Sector including TRW Microwave Products, Inc., and ESL, Inc., and excludes their Automotive and Industrial Sectors.

Projected Reporting-Compliance Rates for Fiscal Year 1983

	Filing rates	
	Percent	Number
Army	13.6 ± 1.5	138 ± 15
Navy	18.0 ± 2.1	236 ± 27
Marine Corps	18.5 ± 0.4	46 ± 1
Air Force	60.6 ± 3.9	1,166 ± 75
Civilians	7.8 ± 1.7	105 ± 23
Overall	28.9 ± 5.0	1,691 ± 291

Note: Projected rates are based on a statistical sample of former DOD personnel we identified as holding a security clearance to work at a facility of a company having at least $10 million in negotiated contracts with DOD. We are 95-percent confident that these rates represent the universe.

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