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United States Government Accountability Office
Washington, DC 20548

January 29, 2010

Congressional Requesters

Subject: *Conversions of Selected Employees from Political to Career Positions at Departments and Selected Agencies*

Political appointees in the federal government sometimes seek appointments to career competitive and other positions which, unlike political appointments, do not terminate at the end of an administration. Conversions of political appointees to career positions must conform to merit system principles requiring that selection be determined solely on the basis of merit after fair and open competition. Sometimes, however, circumstances surrounding conversions can raise questions as to whether the individuals received political favoritism or an unfair advantage in the merit system selection process, even the appearance of which could adversely compromise the integrity of the system.

As requested, we are providing you with information on the number of conversions of political appointees to career positions as reported to us by 42 executive branch departments and agencies from May 1, 2005, through May 30, 2009. The types of positions this letter covers and a definition of each, along with the criteria we used to select the 42 departments and agencies, are listed in the scope and methodology section.

As agreed with your offices, we will report at a later date additional information on these conversions reported by the 42 departments and agencies. That report will discuss (1) for each of these conversions, characteristics of the political positions previously held by employees and the career positions to which they were converted and (2) whether the departments and agencies followed appropriate authorities and proper procedures in converting employees holding political positions to career positions at the GS-12 level and above.

Results

On the basis of data submitted by the 42 departments and agencies and our discussions with them, 143 former political appointees and congressional employees

converted to career positions from May 1, 2005, through May 30, 2009.¹ These conversions were reported by 26 of the 42 departments and agencies we surveyed. The other 16 departments and agencies reported no political conversions during this period. Eighty (56 percent) of the 143 reported conversions were made by 5 departments: the Departments of Justice (32), Homeland Security (18), Defense (13), Energy (9), and Commerce (8). (See encl. I for a more detailed list of departments and agencies reporting political conversions from May 1, 2005, through May 30, 2009.)

Agency Comments

We provided a draft of this report to OPM for their review and comment. OPM indicated that they had no comments on this report.

Scope and Methodology

We have regularly reported on conversions from noncareer to career positions in the past.² In 2002, we reported on conversions from political to career positions during the period from October 1998 through April 2001. In 2006, we expanded our scope and reported on conversions of employees from seven categories of noncareer positions, including those defined as political positions in the 2002 report, to career positions during the period from May 2001 through April 2005. The scope of this report is similar to our 2002 report in that it only includes conversions that involve political appointees and congressional employees that convert to career positions. Importantly, and consistent with how we have reported related data in the past, for the purpose of this review, we defined political appointees as those who had an appointment in one of the six categories of positions defined below.³

- **Schedule C:** Appointments are generally noncompetitive and are for excepted service positions graded GS-15 and below that involve determining policy or that require a close confidential relationship with the agency head or other key officials of the agency.

¹The 143 conversions in our review include 5 appointments of limited-term Senior Executive Service (SES) employees to career SES positions. Agencies reported 43 appointments of limited-term SES employees to career SES positions based on our request for them to include career appointments whenever limited-term and emergency SES positions were involved. However, in 38 of these cases, we found after further review that the appointees were career employees rather than political appointees and therefore we did not include them in our review.

²GAO, *Personnel Practices: Conversions of Employees from Noncareer to Career Positions, May 2001 – April 2005*, GAO-06-381 (Washington, D.C.: May 1, 2006) and *Personnel Practices: Career and Other Appointments of Former Political Appointees, October 1998 – April 2001*, GAO-02-326 (Washington, D.C.: Feb. 26, 2002).

³Because this report focuses only on political appointees, we eliminated the “other statutory at-will individuals” category used in our previous work reporting conversions. Sometimes called administratively determined positions, these appointments are made under specific authority provided to certain agencies to appoint individuals to these positions noncompetitively. Also, as described in footnote 1, we excluded limited-term and emergency SES appointees who were career employees prior to the appointment.

- Noncareer SES: Appointments are to positions with responsibility for formulating, advocating, and directing administration policies. Noncareer SES appointees have no tenure and serve “at the pleasure of the department or agency head.”
- Limited-term SES: Appointments may be made for up to 36 months to a position with duties that will end in 36 months or an earlier specified time period.
- Limited-emergency SES: Appointments may be made for up to 18 months to meet a bona fide, unanticipated, urgent need.
- Presidential appointees, including executive level and noncareer ambassadors: Appointments are made by the President, generally to fill high-level executive positions. Appointees support and advocate the President’s goals and policies.
- Noncareer legislative branch: Appointments are primarily to positions in member and committee offices.

We identified four categories of career positions, defined as follows:

- Career (competitive service): Appointments are made through a governmentwide or “all sources” merit staffing (competitive) process, including recruitment through a published announcement, rating and ranking of eligible candidates, and establishment of OPM-created or approved qualification standards.
- Career-conditional (competitive service): Appointments are for permanent positions in the competitive service and are generally the initial positions for new hires. Appointees must complete a 1-year probationary period and a total of 3 years of continuous creditable service to attain a career appointment.
- Career (SES): Appointments are to top-level policy, supervisory, and managerial positions above grade 15 of the General Schedule. Career SES positions require a further review and approval of the executive/managerial qualifications of the proposed selectee by an OPM-administered SES Qualifications Review Board.
- Career excepted service (Non-Schedule C): Appointments involve agency positions that are not subject to OPM’s competitive hiring examination. Agencies have authority to establish their own hiring procedures to fill excepted service vacancies. Such procedures must comply with statutory requirements such as merit systems principles and veteran’s preferences, when applicable.

The criteria used to select the executive branch departments and agencies for this review were: (1) all cabinet-level departments and (2) agencies that had oversight or other regular responsibilities for federal workforce issues. In addition, to get a further variation of federal agency experiences, we considered the size, mission, and

type of workforce to select additional agencies for our review. Under these criteria, we identified 42 departments and agencies. These are listed in enclosure II.

To determine the number of employees who converted from political to career positions, we asked the 42 departments and agencies to first complete a data collection instrument (DCI) for the selected conversions made from May 1, 2005, through May 30, 2009. Using the DCI, we asked the 42 agencies to provide information about the career positions to which the individuals were converted, i.e., the position title, the job series, pay grade, and date of appointment. We also asked the agencies to provide the title of the appointee's former position. In addition, we asked the departments and agencies to provide the related Standard Form 50 for all appointments. These forms provide the official record of a personnel action. We used the Form 50s to obtain information about each appointee's prior position, such as annual salary, and to verify all conversions and the information that the agencies provided on the DCI.

We conducted this performance audit in Washington, D.C. from July 2008 through January 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Director of the Office of Personnel Management and other interested parties. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

Major contributors to this report were Gerard Burke, Sara Cytron, Laurie Choi, Clifton Douglas, Jessica Drucker, Karin Fangman, Valerie Pfeiffer, Bill Reinsberg, George Stalcup, and Kiki Theodoropoulos. Please contact me on (202) 512-6806 if you have any questions.



Laurie E. Ekstrand
Director, Strategic Issues

List of Congressional Requesters

The Honorable Tom Harkin
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
House of Representatives

The Honorable Daniel K. Akaka
Chairman
Subcommittee on Oversight of Government Management,
The Federal Workforce and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Stephen F. Lynch
Chairman
Subcommittee on Federal Workforce, Postal Service and the District of Columbia
Committee on Oversight and Government Reform
House of Representatives

The Honorable Dianne Feinstein
United States Senate

The Honorable Charles E. Schumer
United States Senate

The Honorable Danny K. Davis
House of Representatives

Number of Employees Converted from Political to Career Positions from May 1, 2005, through May 30, 2009, as Reported by Certain Departments and Agencies

Departments and agencies	Number of conversions	Number of employees converted to Senior Executive Service (SES) positions	Number of employees converted to Competitive Service (non - SES) positions	Number of other conversions²
Department of Agriculture	6	0	6	0
Department of Commerce	8	1	7	0
Department of Defense	13	6	5	2
Department of Education	4	0	4	0
Department of Energy	9	3	6	0
Department of Health and Human Services	1	0	1	0
Department of Homeland Security	18	3	14	1
Department of Housing and Urban Development	2	0	2	0
Department of the Interior	6	3	3	0
Department of Justice	32	2	14	16
Department of Labor	6	0	6	0
Department of State	3	0	3	0
Department of the Treasury	5	1	2	2
Department of Veterans Affairs	6	1	5	0
Commodity Futures Trading Commission	3	0	2	1
Consumer Product Safety Commission	2	0	0	2
Environmental Protection Agency	2	0	2	0
Federal Maritime Commission	1	0	0	1
General Services Administration	1	0	1	0
National Aeronautics and Space Administration	2	2	0	0
International Trade Commission	1	0	1	0
Office of Special Counsel	2	1	0	1
Pension Benefit Guaranty Corporation	2	0	2	0
Small Business Administration	2	0	2	0
Social Security Administration	3	2	1	0
Securities and Exchange Commission	3	0	3	0
Total	143	25	92	26

Source: GAO analyses of data based on department and agency responses to our data collection instrument.

²Other conversions would include conversions to Non-Schedule C excepted service positions.

Executive Branch Departments and Select Agencies Covered in This Review

1. Department of Agriculture
2. Department of Commerce
3. Department of Defense (Office of the Secretary, Air Force, Army, and Navy)
4. Department of Education
5. Department of Energy
6. Department of Health and Human Services
7. Department of Homeland Security
8. Department of Housing and Urban Development
9. Department of the Interior
10. Department of Justice
11. Department of Labor
12. Department of State
13. Department of Transportation^a
14. Department of the Treasury
15. Department of Veterans Affairs
16. Commission on Civil Rights^a
17. Commodity Futures Trading Commission
18. Consumer Product Safety Commission
19. Corporation for National and Community Service^a
20. Environmental Protection Agency
21. Equal Employment Opportunity Commission^a
22. Export-Import Bank of the United States^a
23. Federal Deposit Insurance Corporation^a
24. Federal Labor Relations Authority^a
25. Federal Maritime Commission
26. Federal Trade Commission^a
27. General Services Administration
28. U.S. International Trade Commission
29. Merit Systems Protection Board^a
30. National Aeronautics and Space Administration
31. National Labor Relations Board^a
32. Office of Government Ethics^a
33. Office of Management and Budget^a
34. Office of Personnel Management^a
35. Office of Special Counsel
36. Office of the U.S. Trade Representative^a
37. Overseas Private Investment Corporation^a
38. Peace Corps^a
39. Pension Benefit Guaranty Corporation
40. Securities and Exchange Commission
41. Small Business Administration
42. Social Security Administration

^aAgency did not report any employees converted from political to career positions from May 1, 2005, through May 30, 2009.

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