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United States Government Accountability Office
Washington, DC 20548

December 20, 2012

The Honorable John D. Rockefeller IV
Chairman
The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science and Transportation
United States Senate

The Honorable John L. Mica
Chairman
The Honorable Nick J. Rahall II
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Information on Former High-Ranking Coast Guard Officials' Employment with Major Contractors*

The United States Coast Guard, a component of the Department of Homeland Security, manages a broad, multibillion dollar major acquisition portfolio. This portfolio includes acquisitions to modernize ships, aircraft, command and control systems, and other capabilities used to perform its missions. As a result of these acquisitions and other purchases, contractors receive substantial funding from Coast Guard contracts.

In previous work, we found that each year some individuals leave government employment (hereafter referred to as former government officials) and go to work for federal government contractors—potentially the same contractors whose contracts they oversaw or were otherwise involved with prior to leaving.¹ Last year, we reported that about half of the high-ranking officials who separated from the Coast Guard from 2005 through 2009 were compensated by a Coast Guard contractor at some point from the time they left through calendar year 2010.² Former government officials employed by contractors are subject to laws restricting their post-government employment activities. The purpose of these laws is, in part, to protect against conflicts of interest—such as former government officials using their prior relationships, standing, or position in the government for the improper benefit of the contractor or to the detriment of the government, or both. Violation of these laws may

¹GAO, Defense Contracting: Post-Government Employment of Former DOD Officials Needs Greater Transparency, [GAO-08-485](#) (Washington, D.C.: May 21, 2008).

²GAO, *Coast Guard: Communication of Post-Government Employment Restrictions Can Be Strengthened*, [GAO-12-174](#) (Washington, DC: Dec.15, 2011). This report was based on an analysis of those contractors that received obligations from the Coast Guard in calendar year 2010.

result in criminal, administrative, or civil penalties for former government officials and, in some instances, the contractors that employ them.

The Coast Guard Authorization Act of 2010 requires GAO to report annually, no later than December 31 of each year, on the extent to which former high-ranking Coast Guard officials have been compensated by Coast Guard contractors.³ This act defines a Coast Guard contractor as any person that received at least \$10 million in contract awards from the Coast Guard in the calendar year covered by the annual report (hereafter referred to as major Coast Guard contractors). Further, the act defines Coast Guard officials as individuals who were compensated at a rate of pay of the grade O-7 or above, which are Rear Admirals, Vice Admirals, and Admirals and members of the Senior Executive Service (SES). For the purposes of this report, we refer to these individuals as “high-ranking officials.” This report (1) examines the extent to which former high-ranking Coast Guard officials who left government service between January 1, 2006 and December 31, 2010 have been compensated by Coast Guard contractors in calendar year 2011, and (2) compares the responsibilities assigned to these former officials by the Coast Guard with those assigned by major Coast Guard contractors.⁴

To determine the extent to which former high-ranking Coast Guard officials were compensated by Coast Guard contractors, we identified which officials separated from the Coast Guard from 2006 through 2010 using Coast Guard personnel data. We obtained a list of contractors that received any obligations from the Coast Guard in calendar year 2011 using USAspending.gov data.⁵ We contacted each contractor that received more than \$10 million dollars in obligations from the Coast Guard to confirm employment of and obtain compensation levels for the former officials we identified. We used the Internal Revenue Service Information Returns Master File to corroborate employment and compensation data collected from the major Coast Guard contractors and to identify the number of officials employed by all other Coast Guard contractors. Based on the results of this corroboration, we found the data obtained from major contractors to be sufficiently reliable to meet our reporting requirements. To compare Coast Guard and contractor responsibilities for the former high-ranking officials, we obtained and analyzed position descriptions and other information from major contractors and the Coast Guard that described each individual’s official roles and responsibilities. We did not assess whether the actual duties performed by the former officials were in compliance with post-government employment laws.

We conducted this performance audit from May 2012 through December 2012 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.

³Pub. L. No. 111-281, § 402(a) (codified at 14 U.S.C. § 569).

⁴For the purposes of this report, we use “official responsibility” for the statutory terms “oversight responsibility” and “decision-making authority,” which include program oversight and direct authority exercisable alone, with others, or through subordinates, to direct government action.

⁵USAspending.gov is a free, publicly accessible website established by the Office of Management and Budget containing data on federal awards (e.g., contracts, loans, and grants) across the government. The Federal Procurement Data System-Next Generation, the primary governmentwide contracting database, is one of the main data sources for this website.

Summary

A total of 22 of the 39 former high-ranking officials (admiral-level and SES officials) who separated from the Coast Guard from 2006 through 2010 were compensated at some point from 2006 through 2011 by contractors that received obligations from the Coast Guard in calendar year 2011. We found that 12 of these former officials were compensated in calendar year 2011 by major Coast Guard contractors—those contractors receiving more than \$10 million in obligations during that calendar year. The responsibilities of these officials vary, but 9 of these 12 officials were assigned by major contractors to positions involving the development of new business.

Background

Congress has been concerned about contractors hiring former government officials because these individuals can be put in a unique position to make or influence decisions that positively or negatively affect the relationships between contractors and the government and has passed laws subjecting these individuals to certain post-government employment restrictions (see table 1). Employment with a contractor after leaving government service is not a violation of post-government employment laws. Rather, there are restrictions on the timing of the employment and on certain employment activities that take place. There are potential benefits of post-government employment for the government and the contractor. For example, the former government official may possess unique knowledge, skills, and familiarity that could strengthen the relationship and communication between the government and contractor. Conversely, these attributes could also be used to improperly benefit contractors to the detriment of the government.

Table 1: Summary of Post-Government Employment Laws

Prohibition	Duration of bar	Summary
18 U.S.C. § 207(a)(1)	Lifetime	Former federal employees are barred from knowingly making, “with the intent to influence,” any communication to or appearance before a U.S. employee on behalf of any other person (i.e., business entity or individual) on the same particular matters in which the former employees participated personally and substantially when working for the federal government (e.g., specific contract, legal investigation, etc.).
18 U.S.C. § 207(a)(2)	2 Years	Former federal employees are barred from knowingly making, “with the intent to influence,” any communication to or appearance before a U.S. employee on behalf of another person (i.e., business entity or individual) on a particular matter involving a specific party or parties, in which (1) the United States is a party or has a direct and substantial interest, and (2) the person knows or should know this particular matter was actually pending under the “official responsibility” of the employee during the last year of government service.
18 U.S.C. § 207(c)	1 year	Former high-ranking federal employees are barred from knowingly making, “with intent to influence,” any communication to or appearance before an employee of an agency in which they served during their last year of government service, if that communication or appearance is made on behalf of a person (i.e., business entity or individual) on a matter on which the former senior-level employees seek official action from the agency’s employee.
The Procurement Integrity Act (41 U.S.C. § 2104(a))	1 year	Former specified acquisition officials who performed certain procurement duties for the government on a contract valued in excess of \$10 million are barred from accepting any compensation (e.g., as an employee, independent contractor, or consultant) from the contractor involved within 1 year after performing those duties.

Source: GAO summary of U.S. Code

As we reported in 2011, the Coast Guard uses multiple approaches to inform its service members and civilian employees of the aforementioned post-government employment laws.⁶ For example, individuals separating from the Coast Guard have the option to request ethics advice and opinions on future employment opportunities from the Coast Guard's ethics attorney. Ethics opinions provide a legal interpretation of the applicability of post-government restrictions for a particular official. An ethics opinion is prepared by the ethics attorney using information disclosed by the official regarding their previous government experience and prospective employers, including specific contracts and programs under their official responsibility. With complete and accurate disclosure, these optional ethics opinions may provide officials a safeguard against violations that might otherwise result in criminal, administrative, or civil penalties. Ethics opinions may also detail whether prospective employment with a particular contractor is permitted under the post-government employment laws or provide more generalized advice, including a reiteration of potential restrictions.

In addition, the Coast Guard requires training on post-government employment restrictions for certain employees. We reported in 2011 that this training was only mandatory for new employees and ethics advice is optional, so officials leaving the Coast Guard at that time may not have been fully aware of current post-government employment restrictions. In response to our recommendation to provide timely and relevant information on post-government employment restrictions to all admirals and members of the SES as they enter and leave these senior positions, the Coast Guard issued a memo in January 2012 implementing this recommendation.

Our 2011 report also found that most of the major contractors we examined use a variety of practices to help ensure their employees comply with post-government employment restrictions. Examples include having policies and guidance in place concerning these issues, providing training for employees, using controls during the hiring process such as requesting ethics opinions for self- or contractor-identified former government officials, and using monitoring mechanisms such as a hotline to receive anonymous reports of conflicts of interest or potential violations. Several of these contractors reported that they use these practices, not only to help ensure compliance with post-government employment laws, but also to avoid the risk of ethical misconduct and costly civil and criminal penalties.

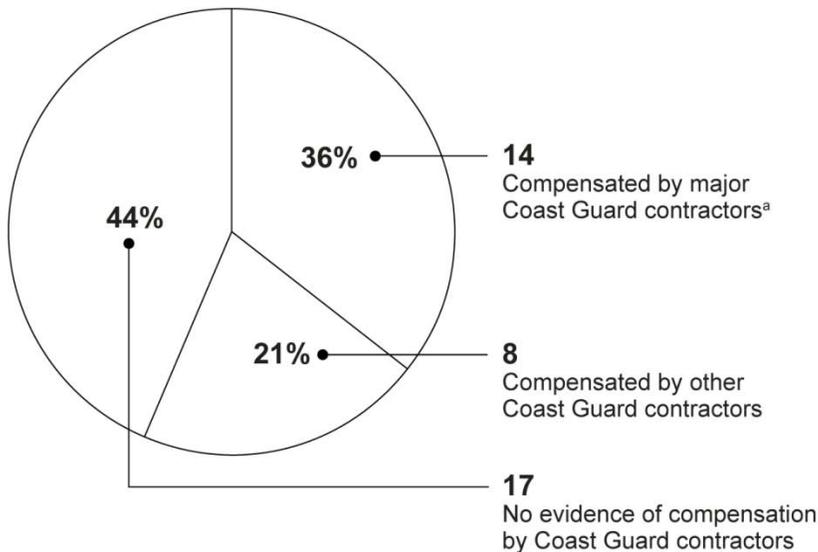
More Than Half of Former High-Ranking Coast Guard Officials Were Compensated by Coast Guard Contractors in Calendar Year 2011

Of the 39 former high-ranking Coast Guard officials who were admiral-level or members of the SES and separated from the Coast Guard from 2006 through 2010, 22 were compensated at some point from 2006 through 2011 by contractors to which the Coast Guard obligated funds in calendar year 2011. We confirmed contractor data indicating that 14 of the 22 former officials were compensated by major Coast Guard contractors—those contractors receiving at least \$10 million in obligations from the Coast Guard during calendar year 2011. Of these 14 former officials, 12 received compensation from major contractors in calendar year 2011. Compensation for the 12 former Coast Guard officials in

⁶[GAO-12-174](#).

calendar year 2011 ranged from \$30,000 to \$287,061 with over half receiving more than \$200,000 in compensation.⁷

Figure 1: Compensation of 39 Former High-Ranking Coast Guard Officials by Coast Guard Contractors from 2006 through 2011



Source: GAO analysis of Coast Guard and contractor data.

^aSome of the individuals compensated by major Coast Guard contractors may have also been compensated by other Coast Guard contractors at some point during this period.

Responsibilities Assigned to Former Coast Guard Officials Compensated by Major Contractors Varied

Of the 12 former Coast Guard officials that were compensated by major Coast Guard contractors in calendar year 2011, 9 were employed by major contractors to develop or expand business, at times in the area of homeland security. Examples of business development activities in these officials' position descriptions are: identifying and developing new business opportunities, drafting and implementing strategies, and coordinating interactions with new and existing customers. These types of activities are generally permitted, but could be limited by the representation restrictions in post-government employment laws. Most Coast Guard and contractor position descriptions we reviewed did not provide insight into specific activities such as programs and contracts that were under an individual's official responsibility. Based on the information contained in these position descriptions, it was not possible to determine if these individuals continued to work on programs for which they had official responsibility while in the Coast Guard. For those former officials compensated by major contractors and not involved in business development, the responsibilities described in their position descriptions varied and included providing consultation on a specific Coast Guard project and leading intelligence analysis supporting homeland security. Further, Department of Homeland Security Hotline, Coast Guard Investigative Service, and GAO's FraudNet officials told us that they had not received allegations of violations of post-government employment restrictions for any of the officials.

⁷For the purposes of this report, compensation refers to salary and monetary bonuses received by individuals. It does not include the value of benefits supplied by contractors to its employees.

Eleven of the 12 officials who were compensated by major Coast Guard contractors in calendar year 2011 received ethics advice concerning potential restrictions on post-government employment. Three officials received generic ethics memos outlining the standard post-government employment restrictions and eight received ethics opinions for employment with specific major contractors. Once a current or former Coast Guard official requests a contractor-specific ethics opinion, it is prepared by the Coast Guard's ethics attorney using a questionnaire that the high-ranking official completes. This questionnaire collects information about an individual's previous Coast Guard experience, including programs and contracts under their official responsibility, as well as the anticipated duties, potential programs, and related contracts associated with a prospective employment. Further, the questionnaire makes clear that the resulting ethics opinion is only as good as the information disclosed by the official and that incomplete or inaccurate information could result in advice that is of little or no use to the official or prospective employer. According to the Coast Guard ethics attorney, to help ensure completeness, he will follow-up with the official through email or in-person meetings to clarify questionnaire data and to address any ethics questions. Most of the ethics opinions reiterated the representation restrictions placed upon officials separating from government service and none of the officials were barred from accepting employment with a major contractor.

Agency Comments

We provided a draft of this report to DHS for comment. DHS provided written comments, noting that it remains committed to ensuring proper performance of government business. DHS's comments can be found in enclosure II. DHS also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Commandant of the Coast Guard and the Secretary of Homeland Security. In addition, this report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4841 or huttonj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in enclosure III.



John P. Hutton
Director
Acquisition and Sourcing Management

Enclosures – 3

Enclosure I: Scope and Methodology

To determine the extent to which former high-ranking Coast Guard officials have been compensated by Coast Guard contractors in calendar year 2011, we obtained personnel data from the Coast Guard to identify those individuals, admiral-level (O-7 and above) or in the Senior Executive Service (SES), who separated from the Coast Guard between January 1, 2006 and December 31, 2010. We used USAspending.gov data to identify all contractors that received obligations from the Coast Guard in calendar year 2011. We narrowed this list to major contractors by determining which received more than \$10 million in obligations that year. Due to the lack of data on government subcontractors in USAspending.gov, we did not assess whether the former officials were compensated by Coast Guard contractors via subcontracts. We contacted all of the major contractors, provided the list of identified former high-ranking Coast Guard officials, and requested information on whether any of the officials had been compensated, by how much, and for what purposes between January 1, 2006 and December 31, 2011. We then corroborated the information collected from the major Coast Guard contractors by comparing it to Internal Revenue Service Information Returns Master File data. We also used the Internal Revenue Service Information Returns Master File data to identify those high-ranking officials on our list who were compensated by any other Coast Guard contractor in 2011.⁸ Based on the results of this corroboration, we found the data received from contractors to be sufficiently reliable to meet our reporting objectives.

To compare the responsibilities of former Coast Guard officials compensated by major Coast Guard contractors to those which they held while in the Coast Guard, we obtained and reviewed position descriptions and other information from these major contractors on the roles and responsibilities assigned to the former officials they compensated. We also obtained and reviewed position descriptions, ethics advice or opinions, and additional information from the Coast Guard on the former officials' roles and responsibilities for the 5 years prior to their separation. We then compared the Coast Guard and major contractor information on the officials' responsibilities to determine if an individual may have worked on programs or contracts in both government and as a contractor. As noted in our finding, we were not able to make this determination as most position descriptions did not provide information on specific programs or contracts for which former Coast Guard officials had responsibility. We did not assess whether the actual duties performed by the former Coast Guard officials were in compliance with post-government employment restrictions; however, we queried the Department of Homeland Security Hotline, the Coast Guard Investigative Service, and GAO's FraudNet regarding whether they had received any allegations of violations of post-government employment laws by the former officials in our analysis.

We conducted this performance audit from May 2012 through December 2012 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.

⁸This methodology was used due to restrictions associated with use of IRS data. To ensure we did not act on IRS data, it was only used at the end of our audit work. Instead, we identified major contractors that compensated former officials using the above approaches, followed up regarding the officials' roles and responsibilities, and only afterwards verified our list of former officials using IRS data.

Enclosure II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

December 11, 2012

John P. Hutton
Director, Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-13-153R, "COAST GUARD: Information on Former High-ranking Coast Guard Officials' Employment with Major Contractors"

Dear Mr. Hutton:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

On an annual basis, GAO evaluates the extent to which the United States Coast Guard's (USCG) former high-ranking officials have been compensated by Coast Guard contractors. USCG high-ranking officials are routinely provided with ethics advice concerning potential restrictions on post-government employment, including avoiding even the appearance of impropriety in conjunction with their post-employment activities. The Department is pleased to note that GAO found the DHS Hotline, Coast Guard Investigative Service, and GAO's FraudNet had not received any allegations of violations of post-government employment restrictions for any of these officials.

DHS also noted the report does not contain any recommendations. The Department remains committed to maintaining high standards of honesty, impartiality, integrity, and conduct to ensure proper performance of government business and the continued trust and confidence of the citizens of the United States

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim H. Crumpacker".

Jim H. Crumpacker
Director
Departmental GAO-OIG Liaison Office

Enclosure III: GAO Contact and Staff Acknowledgments

GAO Contact

John P. Hutton, (202) 512-4841 or huttonj@gao.gov

Acknowledgments

In addition to the contact named above, Penny Berrier, Assistant Director; Peter Anderson; Helena Brink; Stephen Caldwell; Virginia Chanley; Julia Kennon; James Lager; Sylvia Schatz; Tom Twambly; and James Ungvarsky made key contributions to this report.

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