

June 2010

PERSONNEL
PRACTICES

Conversions of
Employees from
Political to Career
Positions May 2005 -
May 2009



GAO

Accountability * Integrity * Reliability

Highlights of [GAO-10-688](#), a report to congressional requesters

PERSONNEL PRACTICES

Conversions of Employees from Political to Career Positions, May 2005 - May 2009

Why GAO Did This Study

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. Federal agencies must use appropriate authorities and follow proper procedures in making these conversions. GAO was asked to determine for departments and selected agencies (1) the number and characteristics of all political to career conversions occurring during the period from May 1, 2005, through May 30, 2009, and (2) whether appropriate authorities were used and proper procedures were followed in making these conversions at the GS-12 level and above.

What GAO Recommends

GAO recommends that OPM review five of the seven conversions GAO identified where it appears that certain agencies did not adhere to merit system principles, did not follow proper procedures, or may have engaged in prohibited personnel practices, and determine whether additional actions are needed. OPM agreed with this recommendation.

Regarding the remaining two conversions that raised questions, one is currently being reviewed by the Ethics Officer for the agency that made the conversion and the other does not warrant further action in our view as the official solely responsible for the conversion and the convertee are both no longer with the agency.

[View GAO-10-688](#) or [key components](#). For more information, contact Laurie E. Ekstrand, (202) 512-6806, ekstrand@gao.gov.

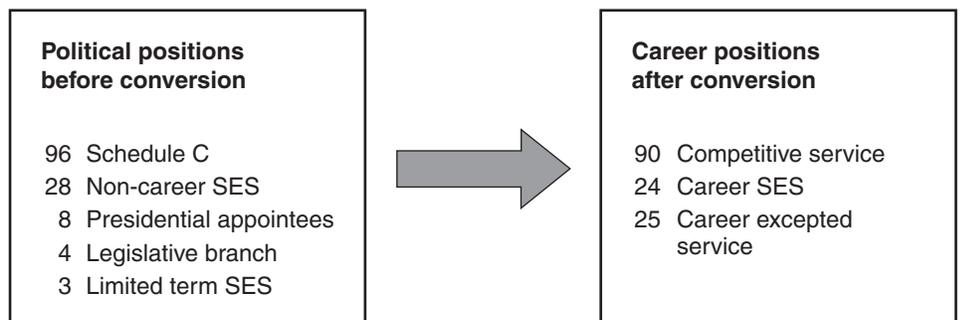
What GAO Found

Twenty-six of the 42 departments and agencies selected for review reported converting 139 individuals from political to career positions from May 1, 2005, through May 30, 2009. The other 16 departments and agencies reported making no conversions during this period. Five agencies accounted for 79, or 57 percent, of the 139 reported conversions: the Departments of Justice (32), Homeland Security (17), Defense (13), Energy (9), and Commerce (8).

Agencies appeared to have used appropriate authorities and followed proper procedures in making the majority (92) of the 117 conversions reported at the GS-12 level or higher. However, for seven of these conversions documentation indicates that agencies may not have adhered to merit system principles, followed proper procedures, or may have engaged in prohibited personnel practices or other improprieties. Some of the improper procedures included pre-selecting particular individuals for career positions and selecting former political appointees who appeared to have limited qualifications and/or experience relevant to the career positions. Of the seven conversions, five will be reviewed by OPM; one involves an issue most appropriately reviewed by the agency's ethics officer, and one does not warrant further action as both the official solely responsible for the conversion and the convertee are no longer with the agency. For 18 conversions there was insufficient information to make a determination as to whether appropriate authorities and proper procedures were followed. In some cases this was because the document retention period had passed by the time of our review and agencies no longer maintained the files. In other cases, agencies did not provide enough documentation for us to fully assess the process they used to make the conversion.

Political appointees can bring valuable skills and experience to the federal workforce, and the merit-based conversion of political appointees to career positions can be a useful means to achieving a highly qualified workforce. OPM's newly implemented pre-appointment review of these conversions could help better ensure they are done appropriately.

Type of Political Positions Converted from and Career Positions Converted to, from May 1, 2005, through May 30, 2009



Source: GAO's analysis of data reported by departments and selected agencies.

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Figure 1: Departments and Selected Agencies with the Most Conversions

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June 28, 2010

Congressional Requesters

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. Sometimes, however, circumstances surrounding conversions can raise questions as to whether the individuals received favoritism or an unfair advantage in the merit system selection process, even the appearance of which could adversely compromise the integrity of the system. There are many types of conversions. This report focuses on one type of conversion; i.e., converting individuals from political to career positions. These conversions represented less than 1 percent of the total number of career conversions across the government from May 1, 2005, through May 30, 2009.¹ The types of positions that this report covers and a definition of each are listed in the background section.

Federal agencies must use appropriate authorities and follow proper procedures in making the conversions. Most of these authorities and procedures are found in Title 5 of the U.S. Code. Title 5 of the U.S. Code includes the merit system principles,² which are broad principles governing federal personnel management, such as that all applicants for federal employment should receive fair and equitable treatment. Other examples of statutory requirements include granting of veteran's preference³ and the prohibition on certain personnel practices⁴ such as discriminating for or against an applicant for employment on the basis of political affiliation. In addition to these statutory requirements, agencies

¹The 1 percent figure for governmentwide career conversions includes conversions within an agency from all noncareer (temporary, term, and political) positions to career positions but does not include conversions from the legislative branch to the executive branch. Our report includes conversions of political appointees within an agency and from the legislative branch to the executive branch only but does not include conversions of temporary and term employees who are not political appointees.

²5 U.S.C. § 2301(b).

³5 U.S.C. §§ 3309-20.

⁴5 U.S.C. § 2302.

must follow the Office of Personnel Management (OPM) regulations, which set out required procedures for making appointments to career positions, such as providing public notice of all vacancies in the career Senior Executive Service (SES).⁵ Agencies are not required to follow OPM's competitive service hiring guidance for career excepted service (non-Schedule C) positions; however, agencies must follow merit system principles, apply veteran's preference, and OPM's guidance for excepted service hiring, when making most of these appointments.

This report responds to your request that we determine (1) the number of conversions of political appointees to career positions as reported to us by 42 executive branch agencies and departments from May 1, 2005, through May 30, 2009; and for each of these conversions, the characteristics of the political positions previously held by these individuals and the career positions to which they were converted, and (2) whether appropriate authorities were used and proper procedures followed in making these conversions at the GS-12 level and above.

We have regularly reported on conversions from noncareer to career positions in the past.⁶ 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 who convert to career positions. In January 2010, we provided you with information on the number of individuals who were converted from political to noncareer positions during the period May 1, 2005, through May 30, 2009, as reported to us by 42 departments and agencies.⁷ We reported that 143 individuals holding political positions were converted to career positions during that time frame at 26 of the 42 selected departments and agencies covered in

⁵ 5 C.F.R. § 317.501(b) (2).

⁶ GAO, *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).

⁷ GAO, *Conversions of Selected Employees from Political to Career Positions at Departments and Selected Agencies*, [GAO-10-356R](#) (Washington, D.C.: Jan. 29, 2010).

our review. The remaining 16 departments and agencies reported no political conversions during that period. Based on additional information and our continuing review of information provided by agencies after our interim report was issued, we have eliminated from this review five out-of-scope conversions that were included in our January 2010 report and added one conversion that we previously excluded. This brings the total number of conversions covered to 139. This report expands on the information previously reported to show the results of those conversions at the GS-12 level and above.

To address our objectives, we asked the 42 departments and agencies to complete a data collection instrument (DCI) and provide official records (Standard Form 50) for each conversion to determine the number of individuals converted from political to career positions. Appendix I lists the 42 departments and agencies we reviewed and the number of conversions reported by each. The criteria used to select the 42 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. For each conversion at the GS-12 level and above, we reviewed the agency files, which document promotion and hiring decisions, and official personnel folders (OPF), which include salary and other information from individuals' current and previous appointments, to ensure that appropriate authorities and proper procedures were followed. Multiple reviewers, including attorneys experienced in the application of federal personnel law, applied their professional judgment after reviewing the appropriate laws and regulations and the circumstances of each case. To ensure inter-rater reliability, the reviews were done independently, and the results later discussed by the reviewers to reach consensus on the appropriateness of each appointment.

Agencies are not required to follow OPM's competitive hiring guidance for career excepted service positions. Instead they devise their own hiring procedures for career excepted service (non-Schedule C) positions. We requested written copies of such procedures from each agency that used this authority to determine (1) if agency procedures were consistent with law and regulations and, including OPM's hiring guidance for excepted service positions where applicable, and (2) whether agencies followed their own procedures. Since most of the conversions to career excepted service positions were made by the Department of Justice (DOJ), we also met with DOJ's Director of Attorney Recruitment and Management to

discuss the process DOJ uses to convert individuals to career excepted service (non-Schedule C) positions.

We conducted this performance audit in Washington, D.C., from July 2008 through June 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.

Background

Political appointments are generally made by the administration in office to support and advocate the president's political goals and policies. These positions are noncareer appointments that are made without regard to the rules for competition that govern career appointments. 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.⁸

- **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. Schedule C appointees serve at the pleasure of the department or agency head.
- **Noncareer SES:** Appointments are to positions with responsibility for formulating, advocating, and directing administration policies. Noncareer SES appointees 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.

⁸Because 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, appointments to these positions are made under specific authority provided to certain agencies to appoint individuals noncompetitively. Also, we excluded limited-term and emergency SES appointees in cases where we determined that the appointees were career employees rather than political appointees.

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- **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.

Also consistent with our past work on conversions, we identified three categories of career positions, defined as follows:

- **Career-Conditional/Career (competitive service):** Appointments are to permanent positions in the competitive service and are generally made through open competitive examination.⁹ Competitive examination includes recruitment through a published or "all sources" announcement, rating and ranking of eligible candidates using OPM-created or approved qualification standards and agency-developed job related assessment tools to identify the most qualified applicants. Generally, the initial competitive service appointment is career conditional. Appointees must complete a 1-year probationary period and a total of 3 years of continuous creditable service to become a career employee.
- **Career (SES):** Appointments into the Senior Executive Service under 5 U.S.C. § 3393 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):** Some appointments are in agencies that are not subject to competitive examination requirements in Title 5 of the U.S. Code. 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. Other appointments are to positions excepted from competitive examination requirements by OPM, such as attorney and chaplain positions.

⁹Career and career-conditional appointments may also be made through specific non-competitive appointment authorities granted by law or Executive Order.

As mentioned previously, the majority of authorities and procedures governing appointments to career positions are outlined in Title 5 of the U.S. Code. Merit systems principles are one of the fundamental statutory rules that apply to civil service appointments. These principles require that agencies provide a selection process that is fair, open, and based on skills, knowledge, and ability.¹⁰ Another statutory requirement is the prohibition on certain personnel practices, such as granting any individual a preference or advantage in the application process, including defining the manner of competition or requirements for a position to improve the prospects of any particular applicant, or failing to fulfill veteran's preference requirements.¹¹ In addition to these statutory requirements, agencies must follow OPM's regulations in Title 5 of the Code of Federal Regulations, which also outline required procedures for making appointments to career positions, such as providing public notice of all vacancies in the career SES.¹² For career excepted service (non-Schedule C) positions, agencies are not required to follow OPM's hiring regulations for the competitive service; however, they must apply veteran's preference, follow merit system principles, and OPM guidance on excepted service hiring when making most of these appointments.¹³

OPM also has oversight authority to ensure that federal agencies are following the merit system principles when hiring. As one aspect of carrying out these duties, OPM has traditionally required agencies to seek its pre-appointment approval for the conversion of certain noncareer appointees (Schedule C and Noncareer SES) into certain career positions (competitive service and career SES) during a presidential election review period. This review period is intended to cover the time period when holders of political positions would seek conversion to career positions. The specific duration of each presidential election review period is defined every 4 years by OPM. For the most recent presidential election, OPM defined the pre-appointment review period from March 17, 2008, through January 20, 2009. In the past OPM did not include conversions to career excepted service (non-Schedule C) positions in this pre-appointment review process. However, OPM announced in a November 5, 2009,

¹⁰5 U.S.C. § 2301(b) (1).

¹¹5 U.S.C. § 2302(b).

¹²5 C.F.R. § 317.501(b)(2).

¹³OPM has excluded certain positions, such as attorney positions, from coverage under its regulations on excepted service appointment procedures. 5 C.F.R. § 302.101.

memorandum to heads of executive departments and agencies that beginning, January 1, 2010, agencies must seek prior approval from OPM before they can appoint a current or recent¹⁴ political appointee to a competitive or non-political excepted service position at any level under the provisions of title 5, United States Code.

In our 2006 report on conversions, we recommended that OPM determine whether conversions to career excepted service positions should be subject to OPM review, and if so, determine what information agencies should provide on such conversions. At that time, OPM responded that it would incorporate a review of agency practices in this area during its normal review of agency delegated examining units. According to the November 2009 OPM memo, OPM will (1) review these proposed appointments to ensure they comply with merit system principles and applicable civil service laws and (2) will also continue to conduct merit staffing reviews for all proposed career SES selections involving a political appointee before the SES selections are presented to OPM's Qualifications Review Board (QRB) for certification of executive qualifications.

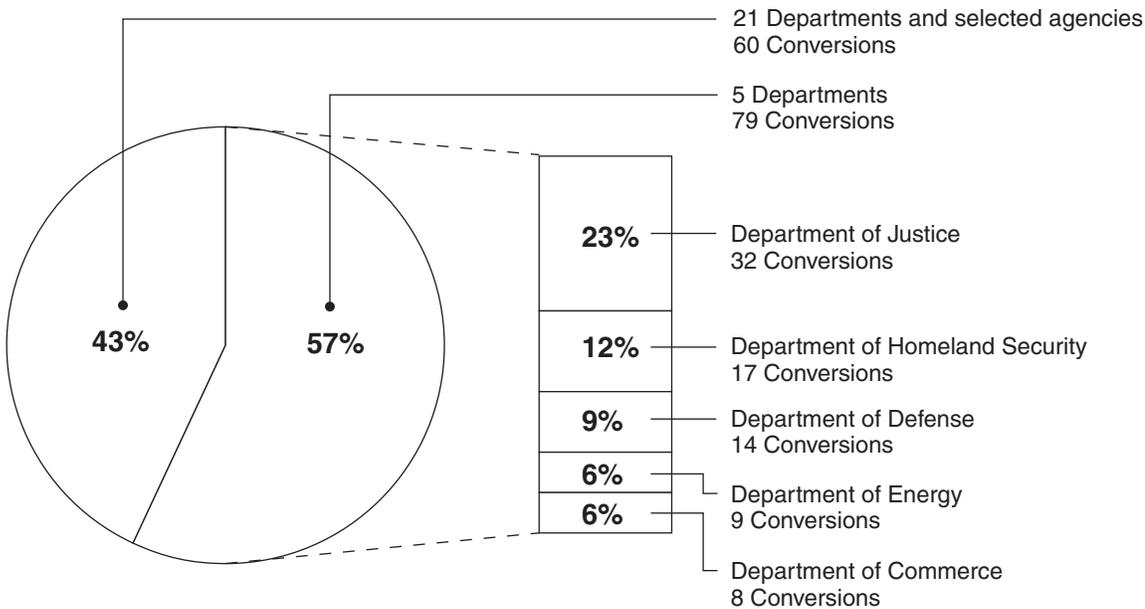
Agencies Made 139 Political to Career Conversions from May 2005 through May 2009

Twenty-six of the 42 agencies we reviewed reported 139 conversions of individuals from political to career positions from May 1, 2005, through May 30, 2009.¹⁵ The other 16 agencies reported no conversions during this period. Five agencies, the Departments of Justice (DOJ), the Department of Homeland Security (DHS), the Department of Defense (DOD), the Department of Energy (Energy), and the Department of Commerce (Commerce) accounted for 79, or 57 percent, of the total 139 conversions reported, as seen in figure 1.

¹⁴OPM defines a "recent political appointee" as an individual who held the political position within the last 5 years.

¹⁵The 139 conversions in our review include three appointments of limited-term Senior Executive Service (SES) employees to career SES positions. Agencies reported 41 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 39 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. Limited term and emergency SES positions are often filled by federal employees who hold career positions and have achieved career status.

Figure 1: Departments and Selected Agencies with the Most Conversions



Source: GAO's analysis of data reported by departments and selected agencies.

Of the 139 reported conversions, individuals were converted from the following categories of non career positions:

- 96 Schedule C positions,
- 28 noncareer SES positions,
- 8 presidential appointee positions,
- 4 legislative branch positions, and
- 3 limited term SES positions.

The 139 reported conversions were made to the following categories of career positions:

- 90 competitive service positions,
- 24 career SES positions, and
- 25 career excepted service (non-Schedule C) positions.

Appendix III provides more detail on the characteristics of the political and career positions to which the individuals were converted, i.e., title or positions, grades, salaries, and appointment dates.

Agencies Appeared to Have Used Appropriate Authorities and Proper Procedures in Making the Majority of These Conversions

One hundred and seventeen of the 139 conversions reported by the agencies were at the GS-12 level or above and agencies appear to have used appropriate authorities and followed proper procedures in making the majority (92) of these 117 conversions. More specifically, for 92 of the 117 conversions at the GS-12 level and above, our review of the merit staffing files and official personnel folders at the respective agencies indicated that the agencies generally followed the procedural requirements associated with each appointing authority called for by federal law and regulations, including merit system principles such as fair and open competition and fair and equitable treatment of applicants. For example, agencies generally complied with the competitive service examination process that is intended to ensure that merit system principles are followed. The process includes notifying the public that the government will accept applications for a job, rating applications against minimum qualification standards and assessing applicants' competencies or knowledge, skills, and abilities against job-related criteria to identify the most qualified applicants.

In Seven Conversions, Appropriate Authorities and Proper Procedures May Not Have Been Followed

For seven conversions, agencies may not have adhered to merit systems principles or may have engaged in prohibited personnel practices or other improprieties. Five of these appointments were career competitive ones. The remaining two were appointments to the excepted service. We found that most of these cases potentially involved one of several categories of improper procedures. Each of these conversions is discussed in more detail in appendix IV.

In three of the seven instances it appears agencies converted individuals who appeared to have limited qualifications and/or experience relevant to the career positions.

- In one case, it appears the Department of Veterans Affairs appointed a Schedule C employee who lacked the specialized experience requirements for the position.
- In one case, it appears the Department of the Treasury appointed a Schedule C employee to a career position although he lacked the required specialized experience.

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- In one case it appears the Department of Justice appointed a Schedule C appointee to a career position despite unfavorable recommendations from interviewing officials.

In two instances, it appears agencies afforded unfair advantages to applicants for career positions.

- It appears the Department of the Air Force pre-selected a Schedule C appointee to a career position, giving the political appointee an unfair advantage in the competitive process.
- The Office of Special Counsel did not follow its own attorney recruitment and hiring procedures and noncompetitively converted the political appointee. Both the official solely responsible for the conversion (the former Special Counsel) and the converttee are both no longer with the agency.

In one instance, an agency processed a conversion despite the appearance that ethical standards may have been violated.

- The U.S. Marshals Service of the Department of Justice allowed a political appointee to authorize the vacancy announcement for a career position that the political appointee ultimately applied for and was selected to. According to Justice, the agency's ethics officer is gathering information on this conversion and, based on the information she receives, her office will take the appropriate next steps.

The remaining case had other irregularities.

- The Department of Veterans Affairs advertised a career position as a 4-year term appointment but placed the selectee into a permanent position.

OPM had no review role in these seven cases because none of the seven conversions occurred during the OPM-specified presidential election review period and none of the appointments were at the SES level.

In 18 Conversions, There Was Insufficient Information to Make a Determination as to Whether Appropriate Authorities and Proper Procedures Were Followed

For 18 conversions, agencies did not provide enough information for us to make a determination as to whether appropriate authorities and proper procedures were followed. Thirteen of these conversions were to competitive service positions and five were to career excepted service (non-Schedule C) positions. OPM requires agencies to maintain records of the rating, ranking, and selection process for competitive service appointments, although these OPM documentation requirements do not apply to excepted service appointments. For five of the cases reviewed, because the conversions occurred more than 2 years prior to our review, agencies told us they were no longer required to maintain the records documenting the conversion. However, in the remaining cases within the 2-year time period where there was insufficient information to make a determination, agencies, despite our repeated attempts to obtain certain documents, did not provide enough documentation for us to fully assess the process they used to make the conversion. This raises questions about the degree to which the agencies kept records of these important personnel actions. The unique hiring procedures and limited documentation requirements for excepted service positions contributed to our having insufficient information to reconstruct agencies' decision-making process in the five excepted service appointments. More details on these conversions can be found in appendix V.

Conclusions

As we have stated in previous reports, the ability to convert political employees to career positions is an appropriate and valuable means of achieving a highly skilled workforce. We found that the departments and selected agencies used appropriate authorities and followed proper procedures in making the majority of conversions at the GS-12 level or higher. Five of the seven conversions we reviewed raised questions and should be reviewed further by OPM. OPM should review these conversions and take action as appropriate because the circumstances surrounding each could give the appearance of favoritism or preference. OPM's recently established policy requiring agencies to seek prior approval from OPM before they can appoint a current or recent political appointee to a competitive or non-political excepted service position at any level should help better ensure that these conversions are meeting merit system principles and applicable civil service laws.

One of the conversion actions we reviewed which raised questions presents issues that are not within the purview of OPM's authority. The U.S. Marshal Service's conversion presents a potential violation of ethical standards, which is not within OPM's authority to address but is a matter appropriate for review by the Department of Justice's ethics office.

According to Justice, the agency's ethics officer is gathering information on the conversion and, based on the information she receives, her office will take the appropriate next steps

A final conversion action we reviewed which was problematic—involving the Office of Special Counsel—does not warrant further action in our view as both the official solely responsible for the conversion (the former Special Counsel) and the converttee are both no longer with the agency.

Recommendation(s) for Executive Action

To help ensure that federal agencies are adhering to merit system principles and following proper procedures in making conversions of political to career positions, we recommend that the Director, OPM

- review five conversions we identified where it appears that certain agencies did not adhere to merit system principles, did not follow proper procedures, or engaged in other improprieties in making these conversions and determine whether additional actions are needed.

Agency Comments and Our Evaluation

We obtained comments on a draft of this report from the Director of OPM. OPM agreed with our recommendation to review the five cases we identified where agencies did not appear to use the appropriate authorities or adhere to merit system principles. In addition, OPM provided technical clarifications to our draft, which we incorporated as appropriate.

We provided the Department of Justice with a draft of our report for comment. The draft report recommended that the Justice ethics officer should review the conversion we identified where it appears that ethical standards may have been violated. In response to our draft recommendation, Justice's ethics officer is gathering information on the conversion, and based on the information she receives, her office will take the appropriate next steps. Because Justice's ethics officer is taking the recommended action to review the conversion, we are no longer making the recommendation to the Department of Justice.

The Department of Justice, the Office of Special Counsel, the Department of the Treasury, and the Department of Veterans Affairs provided technical clarifications to the discussion of their respective conversions, which we incorporated as appropriate.

We are sending copies of this report to the Director of the Office of Personnel Management and other interested parties. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have questions about this report, please contact me at (202) 512-6806 or ekstrandl@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.



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

Appendix I: Executive Branch Departments and Select Agencies Covered in This Review and Their Number of Conversions

1. Department of Agriculture—6
2. Department of Commerce—8
3. Department of Defense (Office of the Secretary, Air Force, Army, and Navy)—13
4. Department of Education—4
5. Department of Energy—9
6. Department of Health and Human Services—1
7. Department of Homeland Security—17
8. Department of Housing and Urban Development—2
9. Department of the Interior—6
10. Department of Justice—32
11. Department of Labor—6
12. Department of State—3
13. Department of Transportation—0
14. Department of the Treasury—5
15. Department of Veterans Affairs—5
16. Commission on Civil Rights—0
17. Commodity Futures Trading Commission—3
18. Consumer Product Safety Commission—2
19. Corporation for National and Community Service—0
20. Environmental Protection Agency—2
21. Equal Employment Opportunity Commission—0
22. Export-Import Bank of the United States—0
23. Federal Deposit Insurance Corporation—0
24. Federal Labor Relations Authority—0
25. Federal Maritime Commission—1
26. Federal Trade Commission—0
27. General Services Administration—1
28. U.S. International Trade Commission—1
29. Merit Systems Protection Board—0
30. National Aeronautics and Space Administration—1
31. National Labor Relations Board—0
32. Office of Government Ethics—0
33. Office of Management and Budget—0
34. Office of Personnel Management—0
35. Office of Special Counsel—2
36. Office of the U.S. Trade Representative—0
37. Overseas Private Investment Corporation—0
38. Peace Corps—0
39. Pension Benefit Guaranty Corporation—2
40. Securities and Exchange Commission—3
41. Small Business Administration—2
42. Social Security Administration—3

Appendix II: Scope and Methodology

For the purpose of this review, we defined political appointees as those who had an appointment in one of six categories of positions. These appointments were: Schedule C, Noncareer SES, Limited Term SES, Limited Emergency SES, Presidential appointees, and Noncareer legislative branch. Individuals holding political positions may have previously held career positions. We excluded from our review conversions from limited term SES and limited emergency SES where the appointee was a career employee prior to being appointed to the noncareer position from which they were converted. We identified three categories of career positions appointments; Career-Conditional/Career (competitive service), Career (SES), Career Excepted Service (Non-Schedule C). Definitions of these political and career positions can be found in the background section of this report. We also reviewed our prior work on conversions for information on these position categories.

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 appendix I.

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 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 verified the number of conversions reported by the agencies with agency officials for the period from May 1, 2005, through May 30, 2009, including those that reported no conversions during this period. During our review, we also cross-referenced conversions the agencies reported to us that were made during the presidential election review period from March 17, 2008, through January 20, 2009, with the information agencies

reported to OPM during the same period. According to OPM, it received and reviewed 16 proposed conversions during the period.

We reviewed the authorities used and procedures followed for conversions at the GS-12 level and above. When a conversion was to a position not covered by the General Schedule system or the Senior Executive Service, we determined whether the position was equivalent to or above GS-12 by comparing the salary reported in the official personnel folder to the General Schedule pay table in effect for the location of the position at the time of the conversion to see if it equaled or exceeded the pay table salary at GS-12 step 1. For conversions at SEC, we based our decision on whether the eligibility requirements in the vacancy announcement required GS-11 or higher grade. We first identified the authority that the agency cited for the appointment on the SF-50 and verified that it was the appointment authority for that conversion. We also examined the contents of the individual's official personnel folder (OPF), and when appropriate, the announcement case files to determine if there was evidence that the criteria for using the authority were met.

To determine if proper procedures were followed, we reviewed announcement case files and OPFs to determine what steps were taken in the application and conversion process. Announcement case files document promotion and hiring decisions for specific career appointments. The OPF contains SF-50s and records from individuals' previous appointments, including former career positions. If we had questions concerning a conversion, we interviewed officials at the appointing agency and requested documentation to support their statements. We compared the procedures used in the conversion process to the federal personnel laws and regulations contained in Title 5 of the U.S. Code and Title 5 of the Code of Federal Regulations. We also referred to agencies' merit staffing plans. We based our analysis on our review of documents within the case file and additional supporting documents provided by the agency in response to our questions.

We were aided in this appraisal of the circumstances by the knowledge gained from past work on the subject and by our internal review process, which included the examination of the conversions reported to us by attorneys experienced in the application of federal personnel law. Multiple reviewers applied their professional judgment after reviewing the appropriate laws and regulations and the circumstances of each case. To ensure inter-rater reliability, the reviews were done independently and the results later discussed by the reviewers to reach consensus on the appropriateness of each appointment. In addition, we gave a draft of case

summaries to the respective agencies that made the appointments and asked them to provide any corrections, clarifications, or explanations that they believed were appropriate to our understanding of the circumstances. We incorporated their clarifications to the case summaries as appropriate.

Agencies are not required to follow OPM's competitive hiring guidance for career excepted service positions and can establish their own hiring procedures for these positions. We requested and, when available, obtained and reviewed copies of the hiring procedures from each agency reporting using this authority to determine if proper procedures were followed. Specifically, we requested additional information from the departments of Defense, Justice (DOJ), Treasury, the Commodity Futures Trading Commission (CFTC), the Consumer Product Safety Commission (CPSC), the Federal Maritime Commission, and the Office of Special Counsel. We also met with the Department of Justice's Director of Attorney Recruitment and Management to discuss the process DOJ uses to convert individuals to Excepted Service (Non-Schedule C) positions. DOJ, and the Department of Treasury provided GAO with written procedures.

We conducted this performance audit in Washington, D.C., from July 2008 through June 2010 in accordance with generally accepted government auditing standards. These 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.

Appendix III: Political Appointees Converted to Career Positions by Departments and Selected Agencies from May 1, 2005, through April 30, 2009

Noncareer Position		Career Position		
Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Department of Agriculture				
Deputy Assistant Secretary for Congressional Relations Office of the Secretary Department of Agriculture	Noncareer SES ES-301-00/00 \$158,000	Supervisory Agricultural Economist Agricultural Marketing Service	GS-0110-15/10 \$143,471	5/27/2007
Media Relations Specialist Office of Communication Department of the Interior	Schedule C GS-0301-15/04 \$126,850	Public Affairs Specialist Farm Service Agency Department of Agriculture	GS-1035-13/10 \$107,854	9/28/2008
Special Assistant to Director Deputy Administrator for Operations and Management Office of Communications Department of Agriculture	Schedule C GS-0301-15/04 \$126,850	Legislative Affairs Program Manager Deputy Administrator for Operations and Management Office of Communications	GS-0301-14/10 \$127,442	9/14/2008
Confidential Assistant Rural Business-Cooperative Service Office of the Administrator Department of Agriculture	Schedule C GS-0301-09/01 \$50,408	Loan Specialist Rural Housing Service Rural Development Office of the Alaska State Director Rural Business and Cooperative Development Service	GS-1165-09 \$40,949	1/18/2009
Confidential Assistant Office of the Secretary Department of Agriculture	Schedule C GS-0301-11/02 \$60,146	Program Analyst Agricultural Research Service Office of the Administrator	GS-0343-12/1 \$73,100	1/18/2009
Director Food and Nutrition Service Department of Agriculture	Schedule C GS-0301-15/10 \$149,000	Deputy Director Communications and Governmental Affairs	GS-0301-15/10 \$153,200	1/18/2009
Department of Commerce				
Associate Director for Communications Bureau of the Census Department of Commerce	Noncareer SES ES-0301-00 \$145,856	Director of Congressional Relations Patent and Trademark Office	ES-0301-00 \$145,856	6/18/2006
Senior Advisor Minority Business Development Agency Department of Commerce	Schedule C GS-0301-14/04 \$100,547	Budget Analyst Budget Office National Oceanic and Atmospheric Administration	GS-14/04 \$100,547	3/19/2006
Senior Policy Advisor Office of the Secretary Department of Commerce	Schedule C GS-0301-14/01 \$91,315	Fish Management Specialist National Oceanic and Atmospheric Administration National Marine Fisheries Services	GS-0560-14 \$100,000	9/18/2005
Policy Advisor National Oceanic and Atmospheric Administration Department of Commerce	Schedule C GS-13/04 \$87,338	Policy Analyst Office of the Assistant Administrator National Oceanic and Atmospheric Administration	GS-0301-14/01 \$93,822	4/15/2007
Senior Policy Advisor Office of the Director Bureau of the Census Department of Commerce	Schedule C GS-0301-15/04 \$118,272	Chief Policy Officer Bureau of the Census	GS-0301-15/04 \$118,272	7/9/2006

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Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Special Assistant Office of the Assistant Secretary for Policy Department of Labor	Schedule C GS-0301-15/10 \$135,136	Assistant to the Associate Director for Communications Bureau of the Census	GS-0301-15/10 \$135,136	6/27/2005
Professional Staff Member Senate Committee on Appropriations United States Senate	Noncareer Legislative Branch \$131,000	Management and Program Analyst Office of the Chief of Staff National Institute of Standards and Technology	ZA-0343-V/02 \$138,000	7/6/2008
Senior Advisor Office of the Secretary Department of Energy	Noncareer SES ES-0301-00/00 \$123,369	International Relations Specialist Data and Information Service International and Interagency Affairs Office National Oceanic and Atmospheric Administration	ZA-0131-03 \$90,698	11/26/2008
Department of Defense				
Personal and Confidential Assistant Department of the Army	Schedule C GS-0301-09/01 \$44,856	Budget Analyst Business Management Office Integrated Materiel Management Center U.S. Army Aviation and Missile Command	GS-0560-07/08 \$44,470	5/29/2007
Senior Advisor for Communications Department of State	Schedule C GS-0301-15 \$149,000	Director Defense Media Activity Office of Public Affairs Office of the Secretary of Defense	ES-0301-00/00 \$162,900	3/30/2009
Defense Fellow Washington Headquarters Services Miscellaneous Activities Fellows Department of Defense	Schedule C GS-0301-13/02 \$82,044	Program Analyst Homeland Defense and American Security Affairs Deputy Assistant Secretary of Defense for Security Plans and Management Office of the Secretary of Defense	GS-0343-13/02 \$82,044	1/7/2007
Personal and Confidential Assistant to the Assistant Secretary of Defense	Schedule C GS-0301-12/10 \$90,698	Legislative Analyst Office of the Assistant Secretary of Defense for Legislative Affairs Legislative Operations Division Office of the Secretary of Defense	YA-0301-02/00 \$95,232	1/7/2008
Speechwriter Assistant Secretary of Defense for Public Affairs Writers Group Office of the Secretary of Defense	Schedule C GS-0301-15/10 \$139,774	Special Assistant Under Secretary of Defense (Comptroller) Deputy Under Secretary of Defense for Budget and Appropriations Affairs Office of the Secretary of Defense	GS-0301-15/10 \$139,774	5/28/2006

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Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Deputy for Policy Iraq Support Office Washington Headquarters Services Miscellaneous Activities Boards/Commissions/Task Forces Defense Reconstruction Support Office Office of the Secretary of Defense	Limited Term SES ES-0301-00/00 \$152,000	Foreign Relations and Defense Policy Manager Assistant Secretary of Defense for International Security Policy Office of the Secretary of Defense	ES-0301-00/00 \$152,000	8/6/2006
Attorney Advisor General to the Chairman Merit Systems Protection Board	Schedule C GS-0905-15/10 \$143,471	Deputy General Counsel for Fiscal, Ethics, and Civilian Personnel Department of the Air Force	ES-0905-00/00 157,940	8/17/2008
Deputy Director for Office of Federal Contracts Compliance Department of Labor	Noncareer SES ES-0340-00/00 \$170,654	Attorney Department of the Air Force	YA-0905-03/00 150,000	10/12/1008
Staff Assistant Special Assistant for White House Liaison Department of the Air Force	Schedule C GS-0301-07/01 \$35,452	Legislative and Public Affairs Liaison Office of Legislative Affairs Department of the Air Force	YA-0301-02/00 \$79,397	9/4/2007
Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health) Department of the Army	Noncareer SES ES-0301-00/00 \$164,879	Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health) Department of the Army	ES-0301-00/00 \$164,879	6/22/2008
Special Assistant to the Assistant Secretary for the Army for Installations and Environment Department of the Army	Schedule C GS-0301-14/02 \$101,301	Program Analyst Office of the Deputy Assistant Secretary of the Army for Installations and Housing Department of the Army	YA-0343-03/00 \$106,365	3/2/2008
Assistant for Water Resources Policy Office of the Secretary of the Army Office of the Assistant Secretary of the Army for Civil Works Department of the Army	Schedule C GS-0301-15/05 \$121,856	Assistant for Water Resources Legislation Office of the Secretary of Army Department of the Army	GS-0301-15/05 \$121,856	12/10/2006
President Marine Corps University Marine Corps Department of the Navy	Limited Term SES ES-1720-00/00 \$154,582	President Marine Corps University Marine Core Combat Development Command Department of the Navy	ES-1720-00/00 \$154,582	5/13/2007
Department of Education				
Confidential Assistant Office of Special Education and Rehabilitative Services Department of Education	Schedule C GS- 0301-11/01 \$48,206	Personal Assistant Office of Special Education and Rehabilitative Services	GS-0303-09/08 \$59,338	11/24/2008
Confidential Assistant Office of Communications Outreach Department of Education	Schedule C GS-0301-12/-01 \$66,767	Management and Program Analyst Office of Vocational and Adult Education	GS-0343-13/01 \$79,397	8/19/2007

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Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Special Assistant Office of Special Education Rehabilitative Services Rehabilitation Services Administration Department of Education	Schedule C GS-03101-15/10 \$139,774	Supervisory Management/Program Analyst Office of Special Education and Rehabilitative Services Rehabilitation Services Administration	GS-0301-15/10 \$139,774	11/12/2006
Special Assistant Office of Postsecondary Education Department of Education	Schedule C GS-0301-13/01 \$79,397	Senior Communications Analyst Communications, Reporting, and Analysis Services Communications and Administration Office of Federal Student Aid	AD-0301-00/00 \$93,822	12/9/2007
Department of Energy				
Chief of Staff Office of Science Immediate Office of the Director Department of Energy	Noncareer SES ES-0301-00/00 \$172,200	Deputy Director for Resource Management Office of Science Immediate Office of the Director	ES-0301-00/00 \$172,200	7/20/2008
Deputy Assistant Secretary for Budget and Appropriations Office of Congressional Intergovernmental Affairs Department of Energy	Noncareer SES ES-0301-00/00 \$143,976	Director Office of the Executive Secretariat Office of Management	ES-0301-00/00 \$152,614	6/8/2008
Special Assistant Office of Management Department of Energy	Schedule C GS-0301-15/05 \$130,694	Management Analyst Office of Management Office of Engineering and Construction Management	GS-0343-14/10 \$127,442	3/16/2008
Special Assistant Office of Science Office of the Deputy Director for Field Operations Department of Energy	Schedule C GS-0301-07/01 \$37,640	Program Assistant (Office Automation) Office of the Deputy Director for Resource Management	GS-0303-07/03 \$40,150	11/25/2007
Special Assistant Immediate Office of the Assistant Secretary for Policy and International Affairs Department of Energy	Schedule C GS-0301-15/06 \$140,969	Policy Analyst Assistant Secretary for Policy and International Affairs	GS-0301-15/06 \$140,969	1/21/2009
Director of Intergovernmental and Tribal Affairs Assistant Secretary for Congressional and Intergovernmental Affairs Department of Energy	Schedule C GS-0301-13/02 \$89,825	Public Participation Specialist Assistant Secretary for Environmental Management	GS-0301-13/02 \$89,825	1/21/2009
Web Content Manager Chief Information Officer Immediate Office of the Chief Information Officer Department of Energy	Schedule C GS-0301-11/03 \$65,053	Information Technology Specialist (Internet) Systems Development and Engineering Office Office of the Chief Information Officer	GS-2210-11/03 \$65,053	1/21/2009

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Assistant Secretary for Environmental Management Office of the Assistant Secretary Department of Energy	Presidential Appointee EX-0301-04/00 \$172,200	Senior Project Manager Assistant Secretary for Environmental Management Office of Project Recovery	GS-0340-00/00 \$172,200	11/23/2008
Senior Policy Advisor Immediate Office of the Under Secretary for Science Office of the Secretary of Energy Department of Energy	Schedule C GS-0301-15/05 \$136,941	Senior Policy Advisor Office of the Secretary of Energy	GS-0301-15/05 \$136,941	1/21/2009
Department of Health and Human Services				
Confidential Assistant Office of Assistant Secretary for Public Office of the Secretary of Health and Human Services	Schedule C GS-0301-09/02 \$49,712	Public Affairs Specialist Office of Assistant Secretary for Public Deputy Assistant Secretary Public Affairs	GS-1412-11/01 \$58,206	1/20/2008
Department of Homeland Security				
Deputy Assistant Secretary Office of the Assistant Secretary Bureau of Population, Refugees, and Migration Department of State	Noncareer SES ES-0130-00/00 \$175,507	Supervisory Immigration Officer Citizenship and Immigration Services National Security and Records Verification Fraud Detection and National Security Division National Security Branch	GS-1801-15/10 \$153,200	3/29/2009
Legislative Management Officer Bureau of Legislative Affairs Department of State	Schedule C GS-0301-11 \$60,989	Correspondence Analyst Office of the Executive Secretariat	GS-0301-11/01 \$60,989	3/30/2009
Policy Analyst Assistant Secretary of Policy Immediate Office of the Secretary Department of Homeland Security	Schedule C GS-0301-12/01 \$73,100	Regional Affairs Specialist Assistant Secretary of Policy Immediate Office of Secretary	GS-0301-13 \$86,927	4/12/2009
Director Transition and Transformation Strategic Planning and Evaluation Office of the Under Secretary Federal Emergency Management Agency Department of Homeland Security	Schedule C GS-0301-14/02 \$101,301	Supervisory Program Specialist National Preparedness Directorate Federal Emergency Management Agency	GS-0301-14/02 \$101,301	8/3/2008
Deputy Assistant Secretary Office of Assistant Secretary Bureau of Western Hemispheric Affairs Department of State	Noncareer SES ES-0130-00/00 \$156,374	Director International Affairs and Foreign Policy Advisor Office of the Commandant of the Coast Guard	ES-0131-00/00 \$158,500	10/12/2008
Associate Director of Strategic Communications Headquarters Department of Homeland Security	Schedule C GS-0301-13/02 \$82,961	Emergency Management Specialist National Capital Region Coordination Federal Emergency Management Agency	GS-0301-13/02 \$82,961	10/26/2008

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Special Assistant for Security Office of the Under Secretary for Intelligence and Analysis Department of Homeland Security	Schedule C GS-0301-15/07 \$117,630	Supervisory Intelligence Operations Specialist Office of the Under Secretary Office of Intelligence and Analysis	GS-0132-15/07 \$124,740	5/15/2005
Policy Analyst DHS Intelligence Analysis Immediate Office of the Secretary Assistant Secretary for Intelligence and Analysis Department of Homeland Security	Schedule C GS-0301-13 \$79,397	Intelligence Operations Specialist Office of the Secretary Assistant Secretary Intelligence Analysis Director Current Intelligence	GS-0132-14/01 \$93,822	6/10/2007
Advisor for Intelligence Immigration and Customs Enforcement Office of the Assistant Secretary Department of Homeland Security	Schedule C GS-0301-15/03 \$117,721	Intelligence Operations Specialist Assistant Secretary for Intelligence and Analysis Assistant Deputy Secretary for Mission Integration Director for Plans and Integration	GS-0132-14/09 \$118,840	7/22/2007
Assistant Press Secretary Immediate Office of the Secretary Office of Public Affairs Department of Homeland Security	Schedule C GS-0301-13/01 \$77,353	Policy Analyst Immediate Office of Secretary Assistant Secretary for Policy Assistant Secretary for Strategic Plans/Deputy Assistant Secretary	GS-0301-13/01 \$79,397	6/24/2007
Policy Analyst Under Secretary for Border and Transportation Security Department of Homeland Security	Schedule C GS-0310-11/01 \$49,479	Supervisory Program Analyst Immediate Office of Secretary Office of the Secretary and Executive Management Executive Secretariat	GS-0343-13/02 \$82,044	9/2/2007
Confidential Assistant & Special Assistant Executive Office of the President Office of Management and Budget	Schedule C GS-301-12/03	Congressional Affairs Specialist Immediate Office of the Secretary Office of Legislative Affairs	GS-0301-13/01 \$86,927	1/22/09
Assistant Director of Legislative Affairs Immediate Office of the Secretary Office of the Secretary Executive Management Office of Legislative Affairs Department of Homeland Security	Schedule C GS-0301-15/05 \$113,597	Management and Program Analyst Immediate Office of the Secretary Office of the Secretary and Executive Management Executive Secretariat	GS-0343-15/08 \$136,114	10/28/2007
Director Office of Research Development Office of the Under Secretary for Science and Technology Department of Homeland Security	Noncareer SES ES-0301-00/04 \$165,200	Director Weapons of Mass Destruction Office of Intelligence and Analysis	ES-0132-00/00 \$165,200	9/16/2007
Chief of Staff Office of the Under Secretary for Science and Technology Department of Homeland Security	Noncareer SES ES-0301-00/00 \$159,500	Deputy Under Secretary for Science and Technology Office of the Under Secretary for Science and Technology	ES-0340-00/00 \$159,500	4/27/2008
Senior Liaison Officer DHS/Executive Secretariat Department of Homeland Security	Schedule C GS-0301-09/01 \$46,041	Correspondence Analyst Immediate Office of Secretary Executive Secretariat	GS-0301-09/01 \$46,041	10/28/2007

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Confidential Assistant Assistant Secretary for Congressional Relations Office of the Secretary Department of Agriculture	Schedule C GS-0301-13/01 \$82,961	Chemical, Biological, Radiological, and Nuclear Element (CBRNE) Program Specialist Federal Emergency Management Agency	GS-0301-12/07 \$83,720	8/31/08
Department of Housing and Urban Development				
Administrator of the Manufactured Housing Program Department of Housing and Urban Development	Schedule C GS-0301-15/06 \$124,740	Supervisory Housing Program Manager Office of Housing	GS-1101-15/07 \$124,740	5/29/2005
Field Management Officer Department of Housing and Urban Development	Schedule C GS-0301-15/04 \$146,555,	Field Office Director	GS-0301-15/08 \$137,839	5/1/2009
Department of the Interior				
Assistant Director of Communications (Press Secretary) Bureau of Land Management Office of the Director Department of the Interior	Schedule C GS-0301-15/04 \$118,272	Program Manager/Assistant Director Communications Bureau of Land Management Office of the Director	GS-0304-15/04 \$118,272	1/8/2006
Director Community Relations Service Department of Justice	Presidential Appointee EX-0301-04/00 \$145,400	Director Office of Self-Governance Assistant Secretary for the Bureau of Indian Affairs	ES-0340-00-00 \$148,160	1/21/2007
Associate Solicitor Indian Affairs Office of the Solicitor Department of the Interior	Noncareer SES ES-0905/00/00 \$136,917	Deputy Bureau Director Office of Law Enforcement Services Bureau of Indian Affairs	ES-1811-00/00 \$142,394	8/7/2005
Deputy Assistant Attorney General Office of the Assistant Attorney General Department of Justice	Noncareer SES ES-0905-00/00 \$159,000	Deputy Associate Solicitor for Mineral Resources Office of the Solicitor	ES-0905-00/00 \$168,000	7/22/2007
Special Assistant, Bureau of Land Management Department of the Interior	Schedule C GS-0301-13/03 \$84,691	Program Specialist Bureau of Land Management	GS-0301-13/03 \$84,691	8/5/2007
Special Assistant to the Deputy Director for External Affairs Office of the Director National Park Service Department of the Interior	Schedule C GS-0301-14/01 \$88,369	Student Trainee (Business Management) Intermountain Region National Park Service	GS-1199-11/01 \$53,409	12/25/2005
Department of Justice				
United States Marshall District of Nebraska United States Marshals Service Department of Justice	Presidential Appointee GS-0082-15/10 \$136,273	Criminal Investigator Judicial Security Division Office of Protective Operations United States Marshals Service Washington D.C.	GS-1811-13/10 \$126,144	7/6/2008

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Supervisory Criminal Investigator Superior Court United States Marshals Service Department of Justice	Presidential Appointee SL-0082-00/00 \$149,000	Criminal Investigator Human Resources Division Training Academy United States Marshals Service Arlington, Virginia	GS-1811-15/10 \$149,000	5/11/2008
United States Marshall, Georgia-Middle United States Marshals Service Department of Justice	Presidential Appointee GS-0082-15/10 \$140,355	Supervisory Criminal Investigator, Georgia-Middle Enforcement Division United States Marshals Service (Macon Georgia)	GS-1811-14/10 \$140,037	2/3/2008
Deputy Assistant Attorney General and Chief of Staff Office of Legal Policy Department of Justice	Noncareer SES ES-0905-00/00 \$128,000	Attorney Advisor Office of Legal Policy Office of Legal Counsel Washington, D.C.	GS-0905-15/06 \$128,757	12/23/2007
Special Assistant Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention Office of the Administrator Department of Justice	Schedule C GS-0301-11/01 \$52,468	Grant Program Specialist Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention Office of the Administrator Washington, D.C.	GS-1101-12/02 \$68,993	5/13/2007
Special Assistant to the Assistant Attorney General Civil Rights Division Office of the Assistant Attorney General Department of Justice	Schedule C GS-0905-14/01 \$93,822	Assistant U.S. Attorney Executive Office for United States Attorneys Southern District- Florida	AD-0905-24/00 \$73,819	1/7/2007
Deputy Administrator Office of Justice Programs Department of Justice	Schedule C GS-0340-15/04 \$121,856	Assistant U.S. Attorney for The District of Columbia Executive Office for United States Attorneys Washington, D.C.	AD-0905-29/00 \$118,272	11/12/2006
Counsel Executive Office Immigration Review Department of Justice	Noncareer Legislative Branch	Immigration Judge Office of the Chief Immigration Judge Executive Office of Immigration Review (York, Pennsylvania)	IJ-0905-00/01 \$117,618	11/2/2006
Special Assistant to the Attorney General Criminal Division Department of Justice	Schedule C GS-0905-15/10 \$139,774	Immigration Judge Office of the Chief Immigration Judge Executive Office Immigration Review (Arizona) Department of Justice	IJ-0905-00/04 \$148,202	4/2/2006
Special Assistant to the Attorney General Senior Counsel for Voting Reform Civil Rights Division Department of Justice	Schedule C GS-0905-15/10 \$139,774	Immigration Judge Office of the Chief Immigration Judge (Miami) Executive Office for Immigration Review	IJ-0905-00/03 \$151,223	2/5/2006

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Deputy Associate Attorney General Office of the Associate Attorney General Department of Justice	Noncareer SES ES-0905-00/03 \$147,500	Immigration Judge Office of the Chief Immigration Judge Executive Office for Immigration Review (Baltimore)	IJ-0905-00/04 \$152,000	1/8/2006
Director Bureau of Justice Statistics Office of Justice Programs Department of Justice	Presidential Appointee EX-1530-04/00 \$138,200	Deputy Director for Planning Planning Office Office of Director Bureau of Justice Assistance	ES-0340-00/00 \$148,400	1/5/2006
Attorney Advisor (Special Assistant) Environmental Natural Resources Division Office of the Assistant Attorney General Department of Justice	Schedule C GS-0905-15/02 \$107,413	Assistant U.S. Attorney United States Attorney's Office Missoula Branch Office	AD-0905-25/00 \$70,000	10/16/2005
Senior Advisor to the Assistant Deputy Administrator Small Business Administration Office of Entrepreneurial Development Department of Justice	Schedule C GS-0301-15/10 \$135,136	Immigration Judge Executive Office for Immigration Review Office of the Chief Immigration Judge Chicago Immigration Court	IJ-0905-00/03 \$149,200	10/2/2005
U.S. Attorney Charlotte Headquarters Department of Justice	Presidential Appointee AD-0905-40/00 \$153,200	Attorney Advisor Western Charlotte Headquarters	GS-0905-15/10 \$153,200	3/15/2009
Attorney Advisor Drug Enforcement Task Force Department of Justice	Presidential Appointee AD-0905-40/00 \$153,200	Attorney-Advisor Executive Office for U.S. Attorneys General Counsel Office	GS-0905-15/10 \$153,200	03/01/2009
Director of Congressional Affairs Office of the Administrator Drug Enforcement Administration Department of Justice	Schedule C GS-0301-15/04 \$126,850	Deputy Chief for Demand Reduction Office of Congressional Public Affairs Drug Enforcement Administration	ES-0301-00/00 \$137,000	11/9/2008
Counsel to Assistant Attorney General Civil Rights Division Office of the Assistant Attorney General Department of Justice	Schedule C GS-0905-14/02 \$101,301	Trial Attorney Civil Rights Division Employment Litigation Section	GS-0905-15/01 \$115,317	10/26/2008
Public Affairs Specialist Office of Public Affairs Department of Justice	Schedule C GS-0303-09/01 \$43,365	Public Affairs Specialist Office of Public Affairs	GS-1035-11/01 \$58,206	01/20/2008
Secretary to the U.S. Attorney Department of Justice	Schedule C GS-0318-10/07 \$57,790	Legal Assistant (Office Automation) Office of the U. S. Attorney New Mexico	GS-0986-07/01 \$35,752	08/5/2007
Secretary (Office Automation) United States Attorney's Office for Wichita, KS, Department of Justice	Schedule C GS-0318-10/06 \$56,185	Legal Assistant (Office Automation) United States Attorney's Office Wichita, Kansas	GS-0986-07/10 \$46,478	07/8/2007
Secretary Department of Justice	Schedule C GS-0318-10/04	Intelligence Analyst New Haven Field Office New Haven, Connecticut	GS-0132-09/08 \$57,902	05/14/2006

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Secretary (Office Automation) Executive United States Attorney's Office Department of Justice	Schedule C GS-0318-10/08. \$60,176	Administrative Program Specialist United States Attorney's Office (Boston)	GS-0301-09/10 \$57,591	6/26/2005
Secretary to the U.S. Attorney for Arkansas-Western Department of Justice	Schedule C GS-0318-09/02 \$43,164	Legal Assistant (Office Automation) United States Attorney's Office (Fort Smith, Arkansas)	GS-0986-08/06 \$44,120	6/26/2005
Secretary (Office Automation) Department of Justice	Schedule C GS-0318-10-04 \$52,033	Administrative Services Specialist United States Attorney's Office (Little Rock, Arkansas)	GS-0301-09-08 \$52,981	8/6/2006
Deputy Director (Public Affairs Specialist) Department of Justice	Schedule C GS-1035-14/01 \$102,721	Public Affairs Specialist United States Attorney's Office (Alexandria, Virginia)	GS-1035-13/07 \$104,314	1/18/2009
Chief Of Staff Office of the General Counsel, Department of Justice	Noncareer SES ES-905-00/00 \$145,586	Assistant U.S. Attorney United States Attorney's Office (Cheyenne, Wyoming)	AD-0905-29/00 \$132,352	1/18/2009
Counsel Office of the Deputy Attorney General Immediate Office of the Deputy Attorney General Department of Justice	Schedule C GS-0905-14/01 \$102,721	Assistant U.S. Attorney United States Attorney's Office (Washington, D.C.)	AD-0905-21/00 \$76,146	1/18/2009
Secretary (Office Automation) Department of Justice	Schedule C GS-0318-10/08 \$67,434	Legal Assistant United States Attorney's Office (Wilmington, Delaware)	GS-0986-07/10 \$52,769	2/1/2009
Special Assistant Bureau of Alcohol, Tobacco, Firearms, and Explosives Department of Justice	Schedule C GS-0301-12/02 \$72,090	Congressional Liaison Specialist Office of Public Governmental Affairs Office of Legislative Affairs	GS-0301-13/01 \$86,927	2/4/2009
Counsel to the Assistant Attorney General Department of Justice	Schedule C GS-0301-14/1 \$106,145	Trial Attorney Civil Rights Division Employment Litigation Section (Washington, D.C.)	GS-0905-15/01 \$120,830	4/12/2009
Deputy Chief of Staff Executive Office of the President	Schedule C GS-0301-14/01 \$106,145	Congressional Liaison Specialist Public and Government Affairs Office of Legislative Affairs	GS-0301-13/08 \$107,211	4/26/2009
Department of Labor				
Special Assistant Office of the Assistant Secretary for Employment and Training Administration Department of Labor	Schedule C GS-0301-15/01 \$115,317	Program Analyst Employment and Training Administration Office of Assistant Secretary Regional Innovation Transformation	GS-0343-14/07 \$117,639	4/27/2008
Special Assistant Mine Safety and Health Administration Office of the Assistant Secretary Department of Labor	Schedule C GS-0301-12/01 \$66,767	Security Specialist Mine Safety and Health Administration Office of the Assistant Secretary	GS-0080-12/01 \$66,767	6/24/2007

**Appendix III: Political Appointees Converted
to Career Positions by Departments and
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April 30, 2009**

Noncareer Position		Career Position		
Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Special Assistant Office of the Assistant Secretary for Veterans' Employment and Training Service Department of Labor	Schedule C GS-0301-15/07 \$129,023	Program Analyst Veterans Employment Training Service Office of the Assistant Secretary for Veterans Employment and Training	GS-0343-13/10 \$96,292	2/5/2006
Staff Assistant Office of the Secretary Department of Labor	Schedule C GS-0301-13/02 \$77,274	Program and Administrative Support Specialist Office of Information Public Affairs	GS-0301-12/08 \$77,556	11/13/2005
Special Assistant Office of the Assistant Secretary for the Employment Standards Administration Department of Labor	Schedule C GS-03001-15/04 \$114,344	Workers' Compensation Specialist Employment Standards Administration Office of Workers' Compensation Programs	GS-0301-15/04 \$114,344	10/16/2005
Attorney Advisor (Labor) Office of the Solicitor Department of Labor	Schedule C GS-0905-11/04 \$64,027	Legislative Analyst Employee Standards Administration Assistant Secretary Employee Standards Administration	GS-0301- 12/01 \$69,764	8/3/2008
Department of State				
Senior Advisor Office of the United States Permanent Representative to the Organization of American States Bureau of Western Hemispheric Affairs Department of State	Schedule C GS-0130-15/05 \$130,694	Foreign Affairs Officer Office of the United States Permanent Representative to the Organization of American States Bureau of Western Hemispheric Affairs	GS-0130-14/08 \$127,442	6/22/2008
Public Affairs Specialist Office of Andean Affairs Bureau of Western Hemispheric Affairs Department of State	Schedule C GS-0130-13/03 \$57,421	Foreign Affairs Officer Office of Andean Affairs Bureau of Western Hemispheric Affairs	GS-0130-13/03, \$88,493	1/20/2008
Confidential Assistant Office of the Secretary Department of State	Schedule C GS-0301-11/05 \$63,135	Special Services Officer Secretary's Detail Division Office of Protection Assistant Director Domestic Operations Bureau of Diplomatic Security	GS-0301-11/05 \$63,135	8/5/2007
Department of the Treasury				
Special Assistant/Executive Secretary Officer Department of the Treasury	Schedule C CG-0301-12/01 \$54,272	License Examining Specialist Office of Foreign Assets Control	GS-0301-12/01 \$66,767	7/22/2007
Staff Director Internal Revenue Service Oversight Board Department of the Treasury	Limited Term SES ES-0301-00/04 \$143,471	Staff Director Internal Revenue Service Oversight Board	GS-0301-15/10 \$149,000	2/17/2008
Special Advisor to the Chairman Federal Deposit Insurance Corporation Office of Thrift Supervision Department of the Treasury	Schedule C TG-0501-24/0 \$178,500	Assistant Managing Director Complex and International Organizations Office of Thrift Supervision	TG-0501-25/00 \$190,000	11/13/2005

**Appendix III: Political Appointees Converted
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Noncareer Position		Career Position		
Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Defense Fellow Washington Headquarters Services Department of Treasury	Schedule C GS-0301-15/01 \$115,317	Intelligence Operations Specialist Office of Terrorism Financial Intelligence	GS-0132-15/02 \$124,858	2/1/2009
Staff Assistant Homeland Security Council White House	Schedule C Equivalent (3 USC 105) AD-301-00 \$40,000	Intelligence Research Specialist Office of Terrorism Financial Intelligence	GS-0132-13/01 \$86,927	2/17/2009
Department of Veterans Affairs				
Administrator Office of 7th Congressional District of Indiana House of Representatives	Noncareer Legislative Branch \$120,000	Congressional Legislative Affairs Officer Office for Congressional Legislative Affairs Veterans Affairs Central Office	GS-0301-15/10 \$149,000	6/22/2008
Senior Advisor Office of the Deputy Secretary Department of Veterans Affairs	Schedule C GS-0301-15/04 \$121,399	Associate Deputy Assistant Secretary for Congressional and Legislative Affairs Office of Congressional Legislative Affairs	ES-0340-00/00 \$134,000	2/4/2007
Deputy Assistant Secretary for Intergovernmental Affairs Veterans Affairs Central Office Department of Veterans Affairs	Noncareer SES ES-0301-00/00 \$166,400	Health System Specialist South Texas Veterans Health Care System	GS-0671-14/10 \$119,314	3/16/2008
Special Assistant Assistant Secretary/Congressional and Legislative Affairs Veterans Affairs Central Office Department of Veterans Affairs	Schedule C GS-0301-15 \$114,042	Program Analyst Office of Management Program Support Veterans Affairs Central Office	GS-0343-14/08 \$115,713	5/27/2007
Director of Speechwriting and Editorial Division Department of Health and Human Services	Schedule C GS-0301-15 \$101,301	Public Affairs Specialist Assistant Secretary Public/Intergovernmental Affairs Veterans Affairs Central Office	GS-1035-15/01 \$120,830	2/9/2009
Commodity Futures Trading Commission				
Special Assistant to the Commissioner Office of the Commissioner Commodity Futures Trading Commission	Schedule C CT-0301-14 \$151,660	Secretary of Commission Office of the Chairman Office of the Secretariat	CT-0301-15 \$163,793	8/5/2007
Professional Staff Member Senate Committee on Appropriations	Noncareer Legislative Branch \$112,000	Government Affairs Advisor Office of the Chairman Office of External Affairs	CT-0301-14 \$142,000	9/8/2008
Deputy Chief of Staff Office of the Secretary Department of Agriculture	Noncareer SES ES-0301-00 \$172,200	Supervisory General Attorney Office of General Counsel Office of the Secretary Legislative Intergovernmental Affairs	CT-0905-15 \$174,001	11/9/2008

**Appendix III: Political Appointees Converted
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Noncareer Position		Career Position		
Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Consumer Product Safety Commission				
Special Assistant (legal) Office of the Commissioner Consumer Product Safety Commission	Schedule C GS-0301-15 \$110,363	General Attorney Office of General Counsel	GS-0905-15/01 \$110,363	2/18/2007
Special Assistant (legal) Office of the Commissioner Consumer Product Safety Commission	Schedule C GS-0301-14 \$97,500	General Attorney Office of General Counsel	GS-0905-14/03 \$97,500	7/9/2006
Environmental Protection Agency				
Special Assistant Office of the Associate Administrator for Public Affairs Environmental Protection Agency	Schedule C GS-0301-15/10 \$143,471	Communications Specialist Office of the Administrator Office of Public Affairs	GS-0301-15/10 \$143,471	4/15/2007
Associate Director Office of the Executive Secretariat Office of the Administrator Environmental Protection Agency	Schedule C GS-0301-14/03 \$100,077	Program Specialist Office of the Chief Financial Officer	GS-0301-13/09 \$100,573	12/23/2007
Federal Maritime Commission				
Counsel to the Commissioner Office of the Members Federal Maritime Commission	Schedule C GS-0301-15/05 \$130,694	Attorney - Advisor (general) Office of General Counsel	GS-0905-15/05 \$130,694	6/30/2008
General Services Administration				
Special Assistant Office of the Commissioner Public Buildings Service Central Office General Services Administration	Schedule C GS-0301-12 \$84,559	Building Manager Triangle Service Center Public Buildings Service	GS-1176-12/10 \$84,559	10/30/2006
National Aeronautics and Space Administration				
Deputy Bureau Chief Enforcement Bureau Bureau Chief and Immediate Staff Federal Communications Commission	Noncareer SES ES-0301-00/00 \$158,800	Director External Relations Johnson Space Center	ES-0301-00/00 \$158,500	5/25/2008
Office of Special Counsel				
Director of the Management and Budget Division Office of Special Counsel	Schedule C GS-0301-15/06 \$128,757	Director Office of Planning Analysis	ES-0301-00/00 \$145,000	11/25/2007
Deputy Special Counsel te Office of Special Counsel	Noncareer SES AD-0905-00/00 \$142,500	General Attorney Investigation Prosecution Division	GS-0905-15/03 \$117,721	1/21/2007
Pension Benefit Guaranty Corporation				
Deputy Director Office of Policy and External Affairs Pension Benefit Guaranty Corporation	Schedule C SL-0301-00 \$158,500	Deputy Director of Operations	SL-0301-00 \$158,500	3/2/2008

**Appendix III: Political Appointees Converted
to Career Positions by Departments and
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April 30, 2009**

Noncareer Position		Career Position		
Title, office, and agency	Type of political appointment, grade, and salary ^{a,b}	Title and office	Career grade and salary ^{a,b}	Date converted
Small Business Administration				
Regional Administrator– Region X–Seattle Small Business Administration	Schedule C GS-0340-15/07 \$137,078	District Director Business District Office Region-X-Seattle Boise District Office	GS-0340-15/07 \$129,557	7/20/2008
Special Assistant to the National Ombudsman Office of the National Ombudsman Small Business Administration	Schedule C GS-0301-12/01 \$73,100	Paralegal Specialist Office of Inspector General Counsel Division	GS-0905-09/10 \$65,531	2/2/2009
Social Security Administration				
Chief of Staff Social Security Administration	Noncareer SES ES-0301-00 \$172,200	Executive Counselor to the Commissioner Office of the Commissioner	ES-0905-00 \$172,200	5/25/2008
Senior Advisor to the Commissioner Social Security Administration	Noncareer SES ES-0301-00/00 \$156,700	Executive Assistant Office of Disability Adjudication and Review	GS-0301-15/10 \$143,471	2/18/2007
General Counsel Social Security Administration	Noncareer SES ES-0905-00 \$165,000	Deputy Commissioner for Disability and Review Office of Disability Adjudication and Review	ES-0905-00 \$165,200	4/2/2006
U.S. International Trade Commission				
Staff Assistant (Legal) Office of Commissioner United States International Trade Commission	Schedule C GS-0301-15 \$115,317	International Trade Analyst Office of Operations Office of Industries Agriculture and Fisheries Division	GS-1101-13/10 \$107,854	9/28/2008
U.S. Securities and Exchange Commission				
Confidential Assistant Office of Executive Staff Securities and Exchange Commission	Schedule C SK-0310-11/30 \$96,371	Program Information Specialist Office of the Secretary Legal and Operations Branch	SK-0310-11/30 \$96,371	3/30/2008
Secretary Office of General Counsel Office of Commission Securities and Exchange Commission	Schedule C SK-318-10/00 \$82,742	Paralegal Specialist Legal and Operations Branch Office of the Secretary	SK-0905-11/00 \$87,707	4/27/2008
Confidential Assistant Office of Executive Staff Office of Commission Securities and Exchange Commission	Schedule C SK-0301-11/21 \$76,190	Program Analyst Office of International Affairs Office of Assistant Director	SK-0343-11/21 \$76,190	11/27/2005

Source: GAO.

^aSalary includes locality pay.

^bSalary at time of conversion.

Legend:

AD: Administratively determined; rate set by agency.

CT: Commodity Futures Trading Commission positions previously defined under pay plan codes AD, ES, GM and GS. Code is for use by the Commodity Futures Trading Commission only.

**Appendix III: Political Appointees Converted
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- EJ: The Department of Energy Organization Act Excepted Service. Code is for use by the Department of Energy only.
- ES: Senior Executive Service
- GG: Grade similar to General Schedule
- GS: General Schedule
- IJ: Immigration Judge Schedule. The code is for use by the Department of Justice only.
- IR: Internal Revenue Service Broadband Classification and Pay System Positions Only. Code is for use by the Internal Revenue Service (Department of Treasury) only.
- NH: Business Management and Technical Professional. DOD Acquisition Workforce Demonstration Project. Code is for use by the Department of the Air Force, Department of the Army, Department of Defense, and Department of the Navy only.
- SK: Securities Exchange Commission individuals formerly under the GS, GM, and EZ pay plans. Code is for use by the Securities and Exchange Commission only.
- SL: Senior level positions
- YA: Standard Career Group – Professional/Analytical Pay Schedule. Code is for use by the Departments of the Air Force, Army, Defense, and Navy only.
- ZA: Administrative Code is for use by the Department of Commerce only.

Appendix IV: Conversions Where Appropriate Authorities and Proper Procedures May Not Have Been Followed

For seven of these conversions, it appears that agencies may not have adhered to merit system principles or may have engaged in prohibited personnel practices or other improprieties. OPM has oversight authority to ensure that agencies are following the merit system principles when hiring. In accordance with this authority, OPM has traditionally required agencies to seek its pre-appointment approval for the conversion of certain noncareer appointees (Schedule C and Noncareer SES) into certain career positions (competitive service and career SES) during a presidential election review period. OPM defined the most recent pre-appointment review period as beginning on March 17, 2008, and concluding on January 20, 2009, Inauguration Day. Additionally, career SES positions require a further review and approval of the merit staffing process by OPM, and the proposed selectee's executive/managerial qualifications by an OPM-administered SES Qualifications Review Board (QRB), composed of members of the SES from across the government. None of the seven conversions were subject to OPM review and approval.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 1: Department of Veterans Affairs (VA)

Positions: From Schedule C Appointment, GS-301-15, Special Assistant/Confidential Assistant, VA Central Office; Office of Congressional & Legislative Affairs (OCLA)

To GS-0343-14/08, Program Analyst, VA Central Office, Office of Information and Technology

Issue: Selection of political appointee who appears to have limited qualifications and experience to a career position

Details: The eventual selectee served as a Schedule C Special Assistant in the Office of the Assistant Secretary for Congressional and Legislative Affairs from January 2001 to May 2007. According to his job application among other duties, the selectee (1) daily managed the production of briefing materials to be used by the Secretary and Deputy Secretary in preparation for high level meetings, (2) guided and advised the Department's Presidential nominees through the Senate confirmation process, (3) developed and maintained working relationships with high level House and Senate Committee staff and staff from Member's personal offices, and (4) was responsible for coordinating the Department's response to the Senate Veterans' Affairs Committee and House Veterans' Affairs Committee budget post hearing questions.

Beginning on April 2, 2007, the agency advertised the Program Analyst position for 2 weeks. The duties listed for this position in the vacancy announcement included among others (1) plans and/or accomplishes training and special projects such as preparing original presentations on special information technology (IT) topics; (2) acts as an expert on special projects, advising top management on major program issues; (3) clarifies policy questions, prepares responses that are consistent with agency policy and reflect the position of the organization executives; and (4) analyzes communications on the most controversial, politically sensitive, complex, or far reaching matters to assure conformance with executive policy.

**Appendix IV: Conversions Where Appropriate
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Have Been Followed**

The vacancy announcement required one year of specialized experience, which was defined as a comprehensive knowledge of a wide range of qualitative and or quantitative methods for the assessment and improvement of agencywide IT program effectiveness or the improvement of complex management processes and systems. The eventual selectee's resume does not demonstrate that he had the specialized experience required, either in terms of the assessment or improvement of IT programs or the improvement of complex management processes and systems.

Conclusions: Agencies have discretion when hiring among a pool of eligible candidates. However, it appears the agency selected a Schedule C appointee who had limited qualifications and experience.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 2:	Department of the Treasury
Positions:	From Schedule C Appointment, GS-301-11, Special Assistant To GS-0301-12, License Examining Specialist, Office of Foreign Assets Control
Issue:	Selection of political appointee who appears to have limited qualifications to a career position
Details:	<p>The eventual selectee served as a Schedule C Special Assistant in the Office of the Executive Secretary from May 22, 2006, to July 21, 2007. The eventual selectee's resume listed the following duties as part of her job responsibility for tasking out, reviewing, and editing briefing materials for the Secretary and Deputy Secretary, coordinate with senior advisors on materials needed for meetings and events, and edit and provide feedback on information memos regarding all areas of the Treasury Department. Prior to joining the federal government, the eventual selectee graduated from law school where she studied International Commercial Arbitration, and worked in academia as editor of publications relating to international and domestic mediation and arbitration.</p> <p>Beginning on May 31, 2007, the agency advertised the License Examining Specialist position for two weeks. The announcement indicated that there was one vacancy to fill. The major duties of the position were listed as (1) provides review and final agency recommendation for approval or disapproval of applications for licenses for commercial, humanitarian, trade financing, individual, and other transactions, except those involving novel or complex policy questions; (2) provides regulatory interpretations on case-by-case licensing matters; (3) coordinates with other U.S. government agencies to obtain information necessary for formulation of licensing policy or for the consideration of specific applications; (4) reviews proposed new regulations and interpretations pertaining to economic sanctions; and (5) provides licensing policy and regulatory information and advice to financial institutions, members of the public, corporations, members of Congress, U.S.</p>

government agencies, and foreign government officials who submit inquiries.

The vacancy announcement required at least one year of specialized experience defined as having working knowledge and experience with respect to national security policies and procedures for humanitarian, financial, and international trade transactions that are governed by regulations implementing U.S. economic sanctions and embargo programs. The vacancy announcement further stated that “[c]andidates will be considered well qualified if they earn a minimum score of 85 (prior to the assignment of veterans’ preference points) on their responses to the application questions.”

The selectee was considered eligible at the GS-12 level and received a score of 83.81 (which was the highest score on the certificate of eligibles for the GS-12 position). While the selectee had some exposure to the materials and discussions in the subject area called for by the specialized experience requirement, her resume does not support that she actually had working knowledge and experience in these subject areas, as required.

Conclusions: The former Schedule C employee did not appear to meet the minimum qualifications for the position.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 3: Department of Justice

Positions: From Schedule C Appointment, Special Assistant to the Assistant Attorney General, Civil Rights Division

To AD-0905-24/00, Assistant United States Attorney, United States Attorney's Office, Southern District of Florida

Issues: Preselecting an applicant for a career position

Details: The eventual selectee served as a Schedule C appointee from March 6, 2005, to January 6, 2007. On June 7, 2006 he was appointed as a Special Assistant U.S. Attorney for a 1 year period. He was converted into the Assistant United States Attorney position on January 7, 2007.

The U.S. Attorneys Office for the Southern District of Florida (in Miami) issued an open-ended vacancy announcement in March 2005 and again in January 2006 to fill multiple Assistant U.S. Attorney position vacancies. The selectee applied and was interviewed by five agency officials in February 2006. According to interview write-up sheets, most interviewing officials recommended he not be hired; one official noted that at least two other superior candidates had been interviewed. Most interviewing officials noted the eventual selectee's lack of experience, that he did not appear to stay in any job for an extended period of time, and observed that his writing sample did not contain much original writing, but was boilerplate.

The eventual selectee entered into a memorandum of agreement (MOU) with the Department of Justice (the Civil Rights Division and U.S. Attorneys Office in Miami). Under this MOU, the selectee was to serve as a Special U.S. Attorney on a 6- month detail to the U.S. Attorneys Office in Miami, from June 12, 2006 -December 9, 2006. The MOU further specified the responsibility of the Civil Rights Division and the Miami U.S. Attorneys Office for the cost of the selectee's salary and benefits.

An e-mail exchange between two officials in the Miami's U.S. Attorneys Office on November 16, 2006, referred to the likelihood that the Miami office would be "picking up" the

**Appendix IV: Conversions Where Appropriate
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Have Been Followed**

eventual selectee after his 6-month detail expired and discussed making arrangements for this to happen. According to a Justice official, the U.S. Attorneys Office for the Southern District of Florida (in Miami) posted an additional vacancy announcement in September 2006 to fill multiple assistant U.S. attorney positions and that the eventual selectee applied for one of these open positions and was considered on the same basis as other applicants. However, Justice was unable to provide any documentation to support that the eventual selectee applied under this vacancy announcement and was considered on the same basis as the other applicants.

On December 1, 2006, a memorandum to the Deputy Attorney General from the U.S. Attorney in Miami and the Director, Executive Office for U.S. Attorneys, indicated that the U.S. Attorney had interviewed the eventual selectee and recommended his appointment. On June 12, 2006, the selectee received a letter from the Miami U.S. Attorneys Office welcoming the selectee to the office.

Conclusions: Despite the fact that the selectee was viewed as a weak candidate under the announced vacancy for AUSA positions, he nevertheless was subsequently appointed into a career AUSA position after serving on a 6-month detail. This action appears to violate the prohibition against granting unauthorized advantages to individuals in the hiring process.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 4: Department of DOD (Air Force)

Positions: From Schedule C Appointment, GS-0301-07/01, Staff Assistant

To YA-0301-02/00, Legislative and Public Affairs Liaison

Issue: Pre-selecting an applicant for a career position

Details: The eventual selectee served as a Schedule C Special Assistant for White House Liaison from November 2005 to August 2007 at the GS-7 and then GS-9 level. The eventual selectee's resume listed the following responsibilities as part of her job (1) to understand and assess legislation affecting DOD as it relates to personnel for the Office of the Secretary of Defense and the Military services, (2) assist with sensitive personnel decisions to determine what is best for the department with respect to proposed senior personnel nominations, and (3) facilitate the selection process by assessing candidates ability to address DOD legislative issues successfully.

In a May 8, 2007, e-mail from the Staffing/Certifying official on this proposed personnel action, it was noted that management wanted to announce this position under the agency's delegated examining authority as they were interested in a Schedule C individual. This Schedule C employee would only be eligible to apply if the vacancy were open to applicants from outside the federal workforce, which is the case under delegated examining. In addition, documentation in the case file showed a management request, dated May 23, 2007, to use a non-competitive process to get the eventual selectee into the position. This request does not appear to have been acted upon.

Beginning on June 25, 2007, the agency advertised the Legislative and Public Affairs Liaison position for 3 days. The duties listed for this position in the vacancy announcement included among others (1) analyze, develop, and assess legislation and congressional information requirement for NORAD and USNORTHCOM organizations and homeland defense, and civil support missions and

capabilities, (2) develop and implement congressional strategies for senior leaders to engage Congress on controversial and sensitive issues, capturing and analyzing complex congressional and public affairs issues to identify potential impact on NORAD, USNORTHCOM, and their subordinate commands, and (3) advise during the development of legislative policy, and lead discussion on possible legislative strategies with key members in the U.S. House of Representatives and U.S. Senate.

Four persons were certified as eligible for consideration. Two persons, including the eventual selectee were rated as best qualified for the position. On July 24, 2007, the selecting official chose the eventual selectee for the position.

Conclusions: Based on the documents provided to us, a number of factors create the appearance that the individual was pre-selected for this position, including (1) expression of interest in non-competitively placing the Schedule C employee into the career position, (2) selection of competitive recruitment method based on eligibility of the Schedule C employee, and (3) leaving the vacancy announcement open for only 3 days. OPM guidelines suggest that agencies keep vacancies open for at least 5 business days to ensure that people who want to apply for the position have an adequate opportunity to do so. Pre-selecting an applicant for a career position would violate the statutory prohibition against granting unauthorized advantages to individuals in the hiring process.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 5: Office of Special Counsel (OSC)

Positions: From Noncareer SES Appointment, ES-0905-0/00,
Deputy Special Counsel, Immediate Office of Special
Counsel
To GS-0905-15/03, General Attorney, Investigation and
Prosecution Division

Issues: Failed to follow own procedures for recruiting and hiring
attorneys

Details: Prior to the appointment to the career excepted service
position, the eventual selectee served as Deputy Special
Counsel (a Noncareer SES position) in the Immediate
Office of Special Counsel from July 23, 2006, through
January 20, 2007. Prior to serving as Deputy Special
Counsel, the eventual selectee had served in a Schedule C,
GS-15, Attorney Advisor position as Special Assistant to the
Deputy Special Counsel. Although the agency did not
provide documentation for when she started in this
Schedule C position, other documentation suggests that she
started during 2004. On January 21, 2007, the eventual
selectee was converted into the career excepted service
position. The comment section of the SF-50 for the
conversion action said "Action at employee's request.
Employee agreed to fill Deputy position on interim basis
pending selection of career SES employee."

According to the Human Resources Director, who
processed the conversion action at the request of the
former Special Counsel, the Special Counsel was the only
official involved in the selection process for this
conversion. The procedures for attorney hiring at OSC are
contained in OSC's Attorney Recruitment Plan. The plan
refers to specific selection procedures to be used when
filling attorney positions, beginning with utilizing an
applicant supply file maintained by the agency and/or
issuing a vacancy announcement. To solicit applications for
the applicant supply file, recruitment notices are to be
distributed so as to ensure broad coverage (schools, bar
associations, etc). The plan describes the evaluation

**Appendix IV: Conversions Where Appropriate
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process, which includes an initial screening for eligibility, ranking by the designated rater into quality categories (highly qualified, qualified) with appropriate additional consideration given to preference-eligible veterans within each category, further review and assessment by the Attorney Evaluation Panel, and finally referral of candidates to the Special Counsel for selection. Documentation provided for this conversion action does not indicate that this attorney hiring process was used or that any other candidate was considered by the former Special Counsel prior to selecting the eventual selectee for the career position.

Both the former Special Counsel and the converttee are no longer with the agency.

Conclusions: This conversion was not in compliance with the agency procedures for attorney hiring.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 6: Department of Justice

Positions: From Presidential Appointee Appointment, GS-1811-15/10,
US Marshall, Georgia Middle US Marshals Service

To GS-1811-14/10, Supervisory Criminal Investigator,
Georgia Middle Enforcement Divisions, US Marshals
Service

Issue: Actions created the appearance that selectee violated
ethical standards

Details: The eventual selectee was a criminal investigator with the
U.S. Marshals Service until she was appointed by the
President to serve as the U.S. Marshal for the Georgia
district. She served as the U.S. Marshal from August 2002,
until she was converted to the GS-14 supervisory criminal
investigator position. The Standard Form 52 Request for
Personnel Action, which was prepared in order to initiate
action to fill the position, includes her signature (as U.S.
Marshal) along with another official's signature as the
officials authorizing the request to fill the position.

The documentation relating to the hiring process for this
position did not suggest that the eventual selectee was
otherwise involved in her own selection. The eventual
selectee was not the top candidate but was selected among
those listed as best qualified in accordance with proper
procedures.

Conclusions: The fact that the eventual selectee signed the SF-52
authorizing the filling of the position that this individual
ultimately was selected for, creates the appearance of a
violation of ethical standards. Although there is no
evidence to suggest that the eventual selectee was involved
in the actual selection process, this appearance of a
violation of ethical standards calls this conversion action
into question.

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

Case 7: Department of Veterans Affairs

Positions: From Noncareer SES Appointment, Deputy Assistant
Secretary for Intergovernmental Affairs, VA Central Office
To GS-0671-14/10, Health Systems Specialist, South Texas
Veterans Health Care System

Issues: Agency advertised a 4-year term appointment but selectee
received permanent position

Details: Prior to applying for the career position, the eventual
selectee had served since June 2001 as a Noncareer SES
Deputy Assistant Secretary for Inter-Governmental Affairs
at the Department of Veterans Affairs.

Beginning on November 23, 2007, VA advertised the
position of Health System Specialist for 21 days. The
vacancy announcement stated that this was a 4-year term
appointment. Eight persons applied for the position, and 2
were deemed qualified. The two found qualified were the
eventual selectee, who was the only external candidate
deemed qualified, and one other internal applicant. Both of
these individuals were placed on the certificate.

During the course of our review, VA's Office of Human
Resources Management informed us that this conversion
action contained errors and that they intended to take
corrective action. In the first instance, VA acknowledged
that the SF 50 for this conversion action erroneously stated
that this was a Veterans Readjustment Act (VRA)
appointment. As VA noted, this conversion could not have
been made pursuant to this authority since such
appointments are only authorized up to the GS-11 level and
this position was at the GS-14 level. More importantly, VA
acknowledged that the position was advertised as a 4-year
term appointment instead of a permanent position and that
despite this, the selectee was put into a permanent position.
VA intends to re-advertise this position as a permanent
position. The selectee will be able to re-apply, and if
eligible, he could be selected. If the selectee can not be
selected under the re-advertisement, VA indicates that it

**Appendix IV: Conversions Where Appropriate
Authorities and Proper Procedures May Not
Have Been Followed**

will seek OPM approval to retain him based on VA's position, which is that this was the result of human resource error.

Conclusions: By advertising this as a 4-year term appointment, the VA may have reduced the number of qualified applicants who would have applied. The VA indicates it will take steps to properly re-advertise this position (as a permanent position) and will inform GAO of the results of their efforts in correcting this error.

Appendix V: 18 Conversions Where It Could Not Be Determined Whether Appropriate Authorities and Proper Procedures Were Followed

Noncareer position, title, and office	Position title, office, and hiring authority	Date converted
Department of Defense		
Schedule C Defense Fellow Washington Headquarters Services, Miscellaneous Activities	Program Analyst Homeland Defense & American Security Affairs OPM Delegated Examining Agreement	01/07/2007
Schedule C Personal and Confidential Assistant to the ASD (LA) Legislative Affairs	Legislative Analyst Legislative Operations Division CS Cert No. OSD072183	01/07/2008
Department of Homeland Security		
Non Career SES Deputy Assistant Secretary Bureau of Population and Refugee Migration Department of State	Supervisory Immigration Officer (FDNS) Citizenship and Immigration Services National Security and Records Verification Fraud Detection & National Security Division DHS IMB09AMR1536950	03/29/2009
Schedule C Associate Director of Strategic Communication DHS Headquarters	Emergency Management Specialist National Capital Region Coordination FEMA OPM Delegated Agreement DHS 1	10/26/2008
Schedule C Confidential Assistant	Program Specialist Grants Program Directorate FEMA OPM Delegated Cert DHS 1	08/31/2008
Schedule C Assistant Director of Legislative Affairs Immediate Office of the Secretary Office of Legislative Affairs	Management & Program Analyst Immediate Office of the Secretary OSEM/Executive Secretariat OPM Delegated Agreement DHS 1	10/28/2007
Schedule C Confidential Assistant & Special Assistant Executive Office of the President Office of Management and Budget	Congressional Affairs Specialist Immediate Office of the Secretary Office of Legislative Affairs OPM Delegated Agreement Cert	1/22/2009
Schedule C Policy Analyst Immediate Office of the Secretary Assistant Secretary of Policy	Regional Affairs Specialist Immediate Office of the Secretary OSEM Assistant Secretary for Policy OPM Delegated Agreement Cert	4/12/2009
Schedule C Policy Analyst Executive Secretariat	Supervisory Program Analyst Immediate Office of the Secretary OSEM Executive Secretariat OPM Delegated Agreement Cert	9/02/2007
Department of Housing and Urban Development		
Schedule C Administrator of the Manufactured Housing Program	Supervisory Housing Program Manager Office of Housing OPM Delegated Agreement Cert	05/29/2005

**Appendix V: 18 Conversions Where It Could
Not Be Determined Whether Appropriate
Authorities and Proper Procedures Were
Followed**

Noncareer position, title, and office	Position title, office, and hiring authority	Date converted
Department of the Interior		
Schedule C Press Secretary Secretary's Immediate Office Office of Communication	Program Manager Assistant Director Communications Washington Office Bureau of Land WO-DEU-2005-0198 DTD 12/1/05	1/08/2006
Department of the Treasury		
Schedule C Defense Fellow Threat Finance Coordinator Special Operations Capabilities Office of the Secretary of Defense Special Operations/Low Intensity Conflict Washington Headquarters Services Department of Defense	Intelligence Operations Specialist Departmental Offices Under Secretary (Terrorism & Financial Intelligence) Assistant Secretary Intelligence & Analyses Schedule A 213.3105 (A)(3)	2/01/2009
Schedule C Equivalent (3 USC 105) Staff Assistant The White House Office General Counsel Homeland Security Counsel	Intelligence Operations Specialist Departmental Offices Under Secretary (Terrorism & Financial Intelligence) Assistant Secretary Intelligence & Analyses Schedule A 213.3105 (A)(3)	2/17/2009
Commodity Futures Trading Commission		
Non Career SES Deputy Chief of Staff	Supervisory General Attorney Office of General Counsel Legislative and Intergovernmental Affairs Schedule A 213.3102(D)	11/09/2008
Consumer Product Safety Commission		
Schedule C Special Assistant (Legal)	General Attorney General Counsel Schedule A, 213.3102(D)	02/18/2007
Schedule C Special Assistant (Legal)	General Attorney General Counsel Schedule A, 213.3102(D)	07/09/2006
Environmental Protection Agency		
Schedule C Special Assistant Office of the Administrator Associate Administration for Public Affairs	Communications Specialist Office of the Administration Reg. 315.401 Reinstatement	04/15/2007
Federal Maritime Commission		
Schedule C Counsel to the Commissioner Office of the Commissioners	Attorney-Advisor (General) Office of the Chairman Office of the General Counsel Schedule A 213.3102D	06/30/2008

Source: GAO.

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

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In addition to the contact above, Bill Reinsberg, Assistant Director; Gerard Burke, Sara Cytron; Laurie Choi; Clifton Douglas; Jessica Drucker; Karin Fangman; Valerie Pfeiffer; George Stalcup; and Kiki Theodoropoulos make key contributions to this report.

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