



General Government Division

B-272330

October 3, 1996

The Honorable Frank R. Wolf
House of Representatives

Dear Mr. Wolf:

This letter follows up on our June 1996 letter¹ to you on the reemployment of buyout recipients. Federal employees who receive cash buyouts to leave federal employment generally must meet certain requirements in order to return to federal service. Our June letter identified 68 individuals who, based on our analysis of information from the Office of Personnel Management's (OPM) Central Personnel Data File (CPDF), appeared to violate the reemployment requirements. As agreed with your office, this letter provides information on whether the 68 met the applicable reemployment requirements. Our conclusions are the result of our examination of information from the CPDF and interviews with personnel officials at the agencies where the buyout and/or hiring action took place. We did not verify the information provided to us by the agencies.

RESULTS IN BRIEF

On the basis of information provided by agency personnel officials, we concluded that 11 of the 68 individuals were in apparent violation of the reemployment requirements, and 45 were not. For the remaining 12 individuals, we could not make a determination because the CPDF data were inconsistent with agency data. We are in the process of notifying the appropriate Inspectors General (IG) of our results in the 11 cases where there were apparent violations and the 12 cases that we could not determine so that they can further investigate these matters and take appropriate actions, if necessary.

¹Reemployment of Buyout Recipients (GAO/GGD-96-102R, June 14, 1996).

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BACKGROUND

Department of Defense (DOD) agencies have been providing buyouts since January 1993 under P.L. 102-484,² which authorized buyouts through September 30, 1997. The DOD buyout authority was subsequently extended through September 30, 1999, by P.L. 103-337.³ Buyouts in non-DOD agencies were authorized by the Federal Workforce Restructuring Act of 1994 (P.L. 103-226). Enacted March 30, 1994, the act gave non-DOD executive branch agencies the authority to offer buyouts to employees who separated by March 31, 1995, unless the date was extended by the head of the agency, but no later than March 31, 1997. For both DOD and non-DOD agencies, the buyout payment was the lesser of \$25,000 or an employee's severance pay entitlement.

Both DOD and non-DOD buyout recipients had to meet certain conditions to be reemployed by the federal government. In the instructions implementing the DOD buyout authority, a DOD employee could not be reemployed by any DOD installation in any capacity for a period of 12 months from the effective date of that employee's separation unless an exception was approved by a high-level DOD official. However, no restrictions were placed on buyout recipient's reemployment by a non-DOD agency.

The Workforce Restructuring Act amended the DOD buyout authority so that DOD employees who received buyouts on or after March 30, 1994, generally came under the act's reemployment provisions. These provisions required both DOD and non-DOD buyout recipients who were rehired by the federal government within 5 years of their separation dates to repay the full amount of the buyouts.⁴ However, for positions in the executive branch, the Director of OPM may, at the request of the agency head, waive the repayment if the individual involved has unique abilities and is the only qualified applicant available for the position.

As we reported in our June 14, 1996, letter, our analysis of CPDF data showed that from January 1993 through June 30, 1995, DOD agencies paid 55,176 buyouts and non-DOD agencies paid 32,567 buyouts, for a total of 87,743 buyouts governmentwide. The CPDF data showed that the government rehired 394 of these 87,743 buyout recipients as civil servants. Of these reemployed buyout recipients, we identified 68 individuals whose compliance with either the DOD or non-DOD reemployment provisions was

²National Defense Authorization Act For Fiscal Year 1993, October 23, 1992.

³National Defense Authorization Act For Fiscal Year 1995, October 5, 1994.

⁴Under the Workforce Restructuring Act, DOD buyout recipients could be reemployed under personal service contracts without having to repay the buyout. Non-DOD employees must repay the buyout if they are reemployed under a personal services contract within 5 years of their separation date.

uncertain. That is, they appeared to be either (1) DOD employees who received a buyout before March 30, 1994, and were reemployed by a DOD agency less than 12 months following their separation (16 individuals fell into this category) or (2) DOD and non-DOD employees who received buyouts after March 30, 1994, and were reemployed by any federal agency (52 individuals fell into this category).

ANALYSIS OF REEMPLOYED BUYOUT CASES

Based on the CPDF data and the information obtained from federal personnel officials, we placed the 68 cases into 3 major categories that are comprised of various subcategories as shown in table 1. The three major categories are as follows:

- (1) individuals in apparent violation of the provisions,
- (2) individuals not in apparent violation, and
- (3) insufficient data for determination.

Table 1: Buyout Recipients' Compliance With Applicable Reemployment Provisions

Category	Status	Frequency
Individuals in apparent violation (11)	Apparent violation of DOD buyout implementing regulations or Workforce Restructuring Act.	11
Individuals not in apparent violation (45)	Individual repaid buyout.	12
	Individual is repaying buyout in installments.	8
	Individual received a waiver from OPM.	1
	Individual applied for buyout but changed mind and was reemployed before buyout was paid.	3
	Individual coded as reemployed in CPDF to facilitate the processing of a personnel action such as the payment of a performance award.	9
	CPDF coding error.	7
	Other.	5
Insufficient data for determination (12)	The CPDF data were inconsistent with agency data.	12
	Total	68

Source: GAO analysis and summation of information personnel officials provided.

Eleven individuals were in apparent violation of the reemployment provisions of either the DOD or non-DOD buyout authorities.⁵ We are in the process of notifying the IGs at these agencies so that they can further investigate these matters and take appropriate actions. As we agreed with your office, we will keep your office informed of the results of their efforts.

We determined that 45 of the 68 individuals were not in apparent violation of the reemployment provisions. According to agency personnel officials we interviewed, these included 12 individuals who repaid their buyouts in full, 8 who are in the process of repaying their buyouts in installments, and 1 who received a waiver from repaying the buyout from OPM. This individual was reemployed by the Federal Highway Administration in Oklahoma City to handle matters resulting from the 1995 bombing. Agency officials said that another 3 of the 45 individuals were reemployed but never received a buyout. They said that these individuals changed their minds on receiving buyouts and were reemployed before the buyout was paid. Another 9 were not actually reemployed, according to personnel officials. Rather, they were coded in the CPDF as reemployed to facilitate the processing of a personnel action such as the payment of a performance award.

Of the remaining 12 cases not in apparent violation, 7 were apparently coding errors in the CPDF and 5 were in the "other " category. This latter category included two individuals who were rehired as voting rights observers and who are not considered federal employees, two who were rehired as uncompensated employees, and one individual who never reported to work and was never paid.

We could not determine whether the 12 remaining cases were in compliance with the reemployment provisions because the CPDF data were inconsistent with agency data. We will notify the appropriate IGs for further investigation of these cases.

A breakdown of the 68 cases by hiring agency is contained in enclosure I.

AGENCY COMMENTS AND OUR EVALUATION

We provided a draft of this letter to OPM and discussed its contents with DOD. In a September 4, 1996, letter (see enc. II), the Director, OPM, said that the report did not seem to indicate any large-scale problems involving violations of the buyout repayment provisions. He also said that the fact that there have been so few violations identified shows that agencies are being vigilant in their hiring practices and that the vast

⁵One individual in apparent violation of the DOD reemployment provisions, at the time of hire, was granted a retroactive waiver by the Air Force after agency officials learned the individual had previously received a buyout.

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majority of agencies and employees are complying with the law. Finally, the Director said that the Workforce Restructuring Act, contrary to what we said in our draft letter, does not provide for a waiver of repayment for non-DOD buyout recipients reemployed under personal service contracts. We agree, and have modified our final letter accordingly.

On different occasions in late August and September 1996, we spoke with a representative of DOD's Office of Inspector General and the Program Manager of DOD's Career Assistance and Reemployment Program about data in the letter specifically pertaining to DOD. The Office of Inspector General coordinated our work at DOD. DOD agreed with our data and, as a result, no changes resulted from their comments.

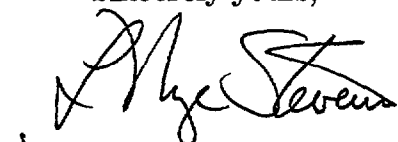
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Our work was performed in Washington, D.C., and Denver, CO, in May and June 1996 in accordance with generally accepted government auditing standards.

We are sending copies of this letter to the Director of OPM, the heads of agencies included in our review, and interested congressional committees. Copies will also be made available to others upon request.

The major contributors to this study are listed in enclosure III. Please call me on (202) 512-8677 if you have any questions.

Sincerely yours,



Timothy P. Bowling
Associate Director
Federal Management and
Workforce Issues

Enclosures - 3

ANALYSIS OF CPDF MATCHES OF REEMPLOYED BUYOUT RECIPIENTS

<u>Status Code</u>	<u>Explanation</u>	<u>Status Code</u>	<u>Explanation</u>
1	Individual repaid buyout.	6	CPDF coding error.
2	Individual is repaying buyout in installments.	7	Apparent violation of DOD buyout regulations or the Workforce Restructuring Act.
3	Individual received a waiver from OPM.	8	The CPDF data were inconsistent with agency data.
4	Individual applied for buyout but changed mind and was reemployed before buyout was paid.	9	Other - includes two rehired as voting rights observers, two as uncompensated employees, and one who never reported to work and was not paid.
5	Individual coded as reemployed in CPDF to facilitate the processing of a personnel action such as the payment of a performance award.		

Hiring agency	Status Codes								
	1	2	3	4	5	6	7	8	9
DOD:									
Air Force	1	1				1	3	1	
Army					6	1		2	1
Navy		1				3		3	
DOD/Info. Sys.								3	
DOD/DLA				1		1			
DOD/Commissary							1		
NON-DOD:									
Energy				1	2				
Interior	3								
Justice	2	1					1		2
Transportation	1	3	1						
EPA				1					
OPM									2
Social Security					1				
State	1							2	
Treasury	1						3	1	
Agriculture	1	2				1	1		
Veterans Affairs	2						2		
Totals	12	8	1	3	9	7	11	12	5

Source: GAO analysis and summation of information personnel officials provided.

COMMENTS FROM OPM

OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

SEP 4 1996

Note: GAO's comment supplementing those in the letter text appears at the end of this enclosure.

Mr. Timothy P. Bowling
Associate Director
Federal Management and Workforce Issues
General Government Division
General Accounting Office
Washington, DC 20548

Dear Mr. Bowling:

Thank you for the opportunity to comment on your August 1996 draft report to Representative Frank R. Wolf entitled Buyout Recipients' Compliance with Reemployment Provisions. This letter provides our comments.

Overall, I am pleased with the findings in the report. The report does not seem to indicate any large-scale problems involving violations of the buyout repayment provisions (only 11 violations out of 87,743 buyouts checked -- less than .01 percent). On the contrary, the fact that there have been so few violations identified shows that agencies are being vigilant in their hiring practices and that the vast majority of agencies and employees are complying with the law.

See comment 1.

The report mentions (in a footnote) that an individual who takes a buyout from a non-Defense agency is required to repay the incentive if the individual accepts a personal services contract within 5 years of separating with the incentive. However, the report does not provide information on whether there have been any reemployments of buyout takers under personal services contracts.

That same footnote (number 4, page 3) incorrectly states that "Non-DOD employees must repay the buyout or obtain a waiver from OPM if they are reemployed under a personal services contract within 5 years of their separation date." The law does not provide for a waiver of repayment when reemployment is under a personal services contract. Thus, buyout takers who are reemployed under a personal services contract within 5 years must repay the entire amount of the buyout and such repayment cannot be waived.

We hope these comments are helpful to you and we, once again, acknowledge the continued hard work of you and your staff in downsizing matters. Please contact me or Ed McHugh, Director, Workforce Restructuring (202-606-0960), if we can assist you in any way.

Sincerely,

James B. King
Director

The following is GAO's comment on OPM's letter dated September 4, 1996.

GAO COMMENT

1. We included the footnote to inform readers about further repayment provisions of the Workforce Restructuring Act, but determining whether buyout recipients were rehired under personal services contracts was outside the scope of our review.

ENCLOSURE III

ENCLOSURE III

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