

February 1990

DOD REVOLVING DOOR

Few Are Restricted From Post-DOD Employment and Reporting Has Some Gaps



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United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-218976

February 27, 1990

The Honorable Charles E. Bennett
Chairman, Subcommittee on Seapower
and Strategic and Critical Materials
Committee on Armed Services
House of Representatives

The Honorable Barbara Boxer
House of Representatives

The Honorable Carl Levin
Chairman, Subcommittee on Oversight of
Government Management
Committee on Governmental Affairs
United States Senate

The Honorable David Pryor
Chairman, Subcommittee on Federal Services,
Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

This report responds to your request that we review the Department of Defense's (DOD) implementation of the revolving door provisions of 10 U.S.C. 2397b¹ and 2397c. Section 2397b² prohibits certain former DOD civilian employees and military officers from accepting compensation from certain defense contractors for 2 years after leaving DOD. Section 2397c³ requires, in part, that defense contractors report the names and duties of former DOD personnel to whom they paid compensation for the first 2 years after leaving DOD. Specifically, we determined

- the extent to which the legislation limited the employment of former DOD personnel by defense contractors and
- whether contractors were appropriately reporting former DOD personnel.

¹10 U.S.C. 2397b was suspended for 1 year beginning November 30, 1989.

²Other ethics laws also apply. For example, 18 U.S.C. 207 limits post-government employment representative activities of certain personnel.

³10 U.S.C. 2397 also requires individuals to report certain post-DOD employment with defense contractors.

According to 10 U.S.C. 2397b, former DOD civilian employees paid at a rate equivalent to a grade GS-13, step 1, and above and military officers in grades O-4 and above are restricted from accepting direct or indirect compensation from certain defense contractors for 2 years after leaving DOD. These personnel must have spent a majority of their working days during their last 2 years at DOD as

- an on-site representative performing a procurement function at a contractor location or
- a major systems procurement official performing a procurement function and participating personally and substantially in decision-making responsibilities through a contact with the contractor.

The section 2397b restriction also applies to any high-level official (generals/admirals and civilian Senior Executive Service) who was a primary representative of the United States in the negotiation of a contract or claim over \$10 million during their last 2 years at DOD.

Results in Brief

DOD and defense contractors have set up procedures to comply with the provisions contained in sections 2397b and c. We found that the legislation limited few DOD personnel from obtaining post-DOD employment with defense contractors. In addition, some employees potentially covered by section 2397b may have been granted permission to accept contractor employment through a misinterpretation of the post-DOD employment restriction. DOD's Standards of Conduct Office has recently issued clarifying instructions. Further, in reviewing section 2397c, we found that contractors' reports did not include all the former DOD personnel covered by the reporting requirement.

Few Individuals Covered by Restrictions

In practice, most of the mid-level personnel potentially targeted do not meet section 2397b criteria because they have not spent most of their working days on one system or at one contractor site during the 2-year period prior to leaving DOD. According to ethics officials, most of these people are excluded from the prohibition because they are involved with more than one system or contractor's plant and did not spend a majority of their working days with any one system or plant. The March 1989 Report of the President's Commission on Federal Ethics Law Reform also concluded that the prohibition is narrowly drawn and few DOD employees are subject to the post-DOD employment prohibitions. For

example, of over 2,100 opinions⁴ written between April 1987 and August 1988, we found only about 100, or about 5 percent, prohibited individuals from accepting compensation from a certain contractor or contractors.

The prohibition is not generally applicable to most high-level officials because they do not normally negotiate contracts or claims exceeding \$10 million in value. Such contracts or claims are normally negotiated by lower level personnel. For example, an ethics office opinion provided to a general officer who had commanded a major procurement activity indicated that the officer was not subject to the 2-year employment prohibition. According to the individual's request for an opinion, he

- was never directly involved in negotiating contracts or settling contractor claims because these functions were performed by subordinates in program offices;
- was precluded by federal acquisition law from direct or indirect contact with contractors during the source selection process, although he was the source selection authority on several major weapon systems procurements; and
- did not spend a majority of his time on any one program because of the great number of major weapon systems being procured at his command.

Based on the information provided, this individual was given an "unrestricted" opinion by his DOD ethics officer that would allow him to work for any defense contractor.

Interpretation of Prohibition Criteria

Some ethics officials misinterpreted the section 2397b prohibition on post-DOD employment, which could have resulted in some former employees improperly obtaining employment with defense contractors. According to the legislative criteria, former DOD employees who spent a majority of working days during their last 2 years at DOD in a procurement function relating to a major system and had contact with a contractor may not receive compensation from the associated contractor for 2 years after leaving DOD.

In calculating the majority of working days, some officials we interviewed counted the days the employee actually spent directly with a

⁴The law provides that DOD personnel can obtain an opinion from their designated agency ethics official regarding the prohibition's applicability to them. If based on complete information, the opinion provides the individual with a conclusive presumption that accepting compensation is not a violation of the law.

contractor, rather than the time the individual spent working on a major system. According to section 2397b, an individual who worked a majority of days on one system involving three contractors should be prohibited from working for all three contractors. However, by using the method employed by some ethics officials—separately counting the days spent with each of the three contractors—the individual would not be prohibited from working with any of the contractors. Even though this interpretation would circumvent the provisions of section 2397b, we have no means to determine how many persons were excluded incorrectly. In response to our inquiries, DOD's Standards of Conduct Office issued clarifying instructions about the criteria to correct this situation.

Contractor Reporting Compliance

10 U.S.C. 2397c requires defense contractors with at least \$10 million in defense contracts to report former DOD personnel they compensated within 2 years after leaving DOD. The contractor must provide, among other things, the name of the individual, the person's positions at DOD and the contractor, and a list of the major systems the person worked on for DOD and the contractor. DOD reviews contractor reports for violations of the post-DOD employment prohibition.

We interviewed officials of 16 major defense contractors. All of the them were aware of the reporting requirements and had submitted reports under section 2397c. However, our examination of the reports showed that not all former DOD employees subject to the reporting requirement had been submitted.

To test contractor compliance with section 2397c, we obtained a list of former DOD employees working for 14⁵ of the 16 companies we interviewed. We identified individuals who should have been reported in 1987 and 1988 from those individuals on the list who had been issued industrial security clearances;⁶ met the pay rate criterion contained in section 2397c; and had left the government within the last 2 years. We observed that about 60 percent of the individuals with clearances were reported in each year. Without being reported, ethics officials cannot perform a post-employment evaluation to determine if these employees are covered by 2397b restrictions.

⁵The Defense Manpower Data Center could not provide information on two of the companies in our sample.

⁶Individuals must hold industrial security clearances to work at a facility of a defense contractor. Clearances may be requested only after an employee is hired. This test is limited as it does not include persons without security clearances or consultants whose security clearances are held through the firm they work for.

We do not know why the remaining individuals on the clearance list were not reported. However, different ethics officials' interpretations of section 2397c and the newness of the requirement—effective April 16, 1987—may account for some of this underreporting.

Pay Rate Criteria

Section 2397c requires contractors to report former DOD personnel who were paid at a rate equal to or greater than the minimum rate of pay for a GS-13, step 1, of the General Schedule. We found that 6 of the 16 contractors we reviewed reported only those former DOD personnel who had actually been GS-13 and above. As a result, these contractors were not reporting any personnel who were GS-12, step 7 and above while working for DOD, although these individuals meet the criteria of pay equal to or greater than that of a GS-13, step 1. DOD has recently provided a fact sheet to defense contractors explaining this criteria.

Reporting of Consultants

Section 2397c also requires the reporting of former DOD employees who were compensated, either directly or indirectly,⁷ for services rendered by a person within 2 years after leaving DOD. In 32 C.F.R., part 40.3, compensation is deemed indirect if it is paid to an entity other than the individual in exchange for services performed by the individual. Contractors are not clear on what constitutes indirect compensation because the term is not adequately defined. For example, contractors are uncertain whether former DOD personnel who are employed by consulting firms working for the major contractors need to be reported. Among the 16 contractors, one was unaware that consultants, whether compensated directly or indirectly, were to be reported and the others interpreted indirect compensation as follows:

- Five contractors believed that employees of consulting firms should be reported.
- Five contractors did not believe that indirect compensation applied, and did not report employees of consultants. One of these contractors considered consulting firm employees to be “subcontractors” and therefore not reportable.
- Five contractors were not sure whether employees of consultants should be reported.

⁷10 U.S.C. 2397c(d) adopts the definition of compensation used in 10 U.S.C. 2397b(f), which specifies direct or indirect compensation.

We cannot assess the extent of underreporting caused by these varying interpretations, since reports do not necessarily identify consultants and our computer-matching could not identify consultants who have clearances under the consulting firms name rather than the defense contractor.

Contractor Views

Overall, the contractors indicated the reporting requirement of section 2397c was a relatively minor administrative activity. However, about half said that requiring more than one such report on former DOD employees was burdensome.

According to DOD, its experience concerning the burden of reporting has been different for small companies. The contractors we surveyed were relatively large companies and the burden for them might not be as great if they already have computerized personnel programs and sufficient personnel to produce the report. According to DOD, many other companies, especially those with relatively few managers and decentralized staff, find the reporting requirement burdensome.

Although most of the companies we surveyed were large companies, two were relatively small, and neither thought the reporting requirement was burdensome. However, many of the contractors expressed a mild dislike for reporting since it is an additional administrative task that is part of doing business with the government.

The reports on former DOD employees required by section 2397c cover the preceding calendar year and are supposed to be submitted by April 1 of the following calendar year. As a result, companies usually have to submit two and often three reports on one individual to cover the required 2-year period. Three reports would be required unless the individual left DOD on December 31 of the calendar year. Contractors pointed out that it is sometimes difficult to track individuals during this period as they move within the company. Additionally, once it has been determined that the individual was not subject to section 2397b, subsequent reporting seems to be of limited value.

DOD commented that it would rather collect contractor reports on individuals just once. However, section 2397c requires contractors to submit those reports.

Recommendation

We recommend that the Secretary of Defense further clarify and define the term "indirect compensation" to ensure uniform reporting by defense contractors of former DOD personnel who work for consulting firms.

Agency Comments

DOD concurred with our findings and recommendation. DOD also noted that some clarifications have already been sent to contractors (see app. I).

Objectives, Scope, and Methodology

To assess DOD's implementation of the post-DOD employment prohibition, we interviewed ethics officials at 10 of the 54 offices that are responsible for providing opinions to former DOD employees on whether section 2397b restrictions apply to them. These 10 offices were selected because they accounted for approximately half of all such opinions in our judgmental sample that were written in April and May of 1987 and 1988.

To evaluate contractor reporting compliance, we requested the Defense Manpower Data Center to perform a computer-matching process that compared industrial security clearances granted in 1987 and 1988 to the Center's listing of persons who had left DOD. Results of this assessment are not projected to the defense industry, but rather apply to the sample of companies. We also interviewed officials and obtained information from the 16 companies on reporting problems or other difficulties associated with section 2397c requirements. We judgmentally selected the 16 companies to include large and small operations as well as manufacturing and consulting services firms.

As agreed with your staff, we will hold the release of this report for 5 days from the date it is issued. At that time, we will send copies to the Secretaries of Defense, the Army, Navy, and Air Force; the Director, Office of Management and Budget; the Director, Office of Government Ethics; and other interested parties. We will make copies available to others upon request.

GAO staff members who made major contributions to this report are listed in appendix II. If you need further assistance, please call me on 275-3990.

A handwritten signature in cursive script that reads "Paul L. Jones".

Paul L. Jones
Director, Manpower Issues

Comments From the Department of Defense



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301-1600

10 JAN 1990

Mr. Frank C. Conahan
Assistant Comptroller General
United States General Accounting Office
National Security and International Affairs Division
Washington, D.C. 20548

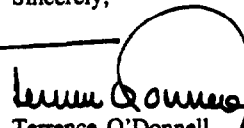
Dear Mr. Conahan:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) Draft Report, "DOD REVOLVING DOOR: Contractors Report Former DoD Personnel But Few are Restricted in Post-DoD Employment," dated December 6, 1989 (GAO Code 391107), OSD Case 8198.

The DoD concurs with the GAO findings and recommendation. The recognition of areas where the DoD has corrected problems, once the GAO discovered areas needing improvement, are especially appreciated.

The detailed DoD comments on the GAO draft report findings and recommendation are provided in the enclosure. The Department appreciates the opportunity to comment on the draft report.

Sincerely,


Terrence O'Donnell

Enclosure

RESPONSE TO GAO DRAFT REPORT - DATED DECEMBER 6, 1989
(GAO CODE 391107) OSD CASE 8198
"DOD REVOLVING DOOR: CONTRACTORS REPORT FORMER
DOD PERSONNEL BUT FEW ARE RESTRICTED IN POST-DOD EMPLOYMENT"

DEPARTMENT OF DEFENSE COMMENTS

* * * * *

FINDINGS

FINDING A: 10 U.S.C. 2397b. The GAO reported that, according to 10 U.S.C. 2397b, former DoD civilian employees paid at a rate equivalent to a grade GS-13 (step 1) and above and military officers in grades O-4 and above are restricted from accepting direct or indirect compensation from certain defense contractors for 2 years after leaving the DoD. The GAO noted that in order for the restrictions to apply, these personnel must have spent a majority of the working days during their last 2 years at the DoD as an on-site representative or a major systems procurement official participating personally and substantially in decision making through a contact with the contractor. The GAO also noted that this section applies to any high-ranking official who was a primary representative of the U.S. in negotiation of a contract or claim over \$10 million. (pp. 2-3/GAO Draft Report)

Now on pp. 1-2.

- DoD RESPONSE: Concur.

FINDING B: Few Individuals Covered by Restrictions. The GAO reported that most of the mid-level personnel potentially targeted do not meet the Section 2397b criteria because they have not spent most of their working days on one system or at one contractor site for the required 2-year period. The GAO noted that the March 1989 Report of the President's Commission on Federal Ethics Law Reform concluded that the prohibition is narrowly drawn and few DoD employees are subject to these prohibitions. The GAO found that, of over 2,000 opinions written by Designated Agency Ethics Officials between April 1987 and September 1988, only 100 prohibited individuals from accepting compensation from a certain contractor or contractors. The GAO also found that the prohibition is not generally applicable to most high-level officials because they do not normally negotiate contracts or claims. (pp. 4-6/GAO Draft Report)

Now on pp. 2-3.

- DoD RESPONSE: Concur.

FINDING C: Interpretation of Prohibition Criteria. The GAO reported that, in calculating the number of working days, some of the ethics officials it interviewed counted the days the employee actually spent directly with a contractor--rather than the time spent on a major system. The GAO found that an individual who worked a majority of days on a system involving three contractors should be covered by the prohibition under Section 2397b, but was not by the method employed by some ethics officials--separately counting the days spent with each contractor. The GAO noted that, in response to GAO inquiries, the DoD Standards of Conduct Office issued clarifying instructions to correct this situation. (pp. 6-7/GAO Draft Report)

Now on pp. 3-4.

ENCLOSURE

- **DoD RESPONSE:** Concur. As soon as the matter of inconsistency was brought to the attention of the DoD Standards of Conduct Office, a correction was made and presently all agencies are aware of the correct method to use.

FINDING D: Contractor Reporting Compliance. The GAO reported that 10 U.S.C. 2397c requires defense contractors with at least \$10 million in defense contracts to report former DoD personnel they compensated within 2 years after leaving the DoD. The GAO observed that the contractor must provide the name of the individual, the positions held at the DoD and the contractor, and a list of the major systems the person worked on for DoD and the contractor. The GAO interviewed officials at 16 major defense contractors and found that all were aware of the reporting requirement. The GAO found, however, that not all former DoD employees subject to the reporting requirement had actually been submitted. To test compliance, the GAO was able to obtain a Defense Manpower Data Center list of former DoD employees working for 14 of the 16 companies. The GAO was also able to identify individuals who should have been reported in 1987 and 1988 from those who had been issued industrial security clearances. The GAO found that only about 60 percent of the covered individuals had been reported each year. Without knowing why the others were not reported, the GAO observed that differing interpretations from various ethics officials and the newness of the reporting requirement may account for some of the underreporting. The GAO noted several areas in which interpretations differed, as follows:

- **Pay Rate Criteria.** The GAO found that eight of 16 contractors did not report former DoD personnel at the GS-12, step 7 or above (i.e., equivalent pay to GS-13 step 1).
- **Reporting Consultants.** The GAO found that, although Section 2397c requires reporting of former DoD employees who are compensated directly or indirectly, contractors are not clear on what constitutes indirect compensation because the term is not adequately defined. The GAO found, for example, that contractors were uncertain whether personnel employed by consulting firms working for the contractors should be reported. (The GAO noted that the 16 contractors were about equally divided between thinking they should, thinking they should not, and not knowing.)
- **Contractor Views.** The GAO reported that, overall, contractors indicated that the reporting requirement of Section 2397c was relatively minor--but that about half said that requiring more than one report on such employees was burdensome. (The GAO noted that three reports would actually be required unless the individual left DoD on December 31.) In addition, the GAO observed that, once it had been determined that the individual was not subject to Section 2397c, subsequent reporting seems to be of limited value. (pp. 8-13/GAO Draft Report)

- **DOD RESPONSE:** Concur. Clarifications on some issues have already been sent to contractors (see attachment). These clarifications will be repeated and the issues of pay rate criteria and reporting by consultants will be specifically clarified for the contractors in the annual reminder letter to be sent by the DoD Standards of Conduct Office by January 26, 1990. Former DoD employees, who were paid at a rate of GS-12, step 7, must be included on the contractor report. Consultants must also be

Now on pp. 4-6.

included, whether they were compensated directly by the contractor or indirectly through a consulting firm.

Although the GAO reported that the 16 contractors they consulted indicated that the reporting requirement of Section 2397c was relatively minor, the experience of the DoD Standards of Conduct Office has been somewhat different. The contractors that GAO worked with were relatively large companies and the burden for them might not be great in that they may already have computerized personnel programs in place and personnel staff to produce the report. Many other companies, especially those with many laborers and relatively few managers, or those with a very decentralized staff, find the reporting requirement burdensome. Smaller companies often do not have the computerization or the personnel staff to produce the report easily. In addition, the DoD Standards of Conduct Office would rather not have to collect reports on individuals more than once, but Section 2397c requires that reporting be repeated. There are too many reports annually for the Standards of Conduct Office to be able to copy information from old reports on individuals previously reported. Therefore, the information on each covered individual must be resubmitted annually.

RECOMMENDATION

***RECOMMENDATION:** The GAO recommended that the Secretary of Defense further clarify and define the term "indirect compensation" to ensure uniform reporting by defense contractors of former DoD personnel who work for consulting firms. (p. 13/GAO Draft Report)*

- DOD RESPONSE: Concur. Some clarifications have already been sent and will be repeated along with other clarifications in the annual reminder letter to be sent to contractors by the DoD Standards of Conduct Office by January 26, 1990.

Now on p. 7.

Attachment - Clarifications to Contractors

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custodimus*

STANDARDS OF CONDUCT OFFICE

3C960 Pentagon, Washington, D.C. 20301-1600 Telephone: (202) 697-5305

Fact Sheet 10 U.S.C. § 2397c Report

WHICH CONTRACTORS ARE REQUIRED TO FILE A REPORT?

Entities that are "ten million dollar defense contractors" and that signed a defense contract for at least \$100,000 on or after April 16, 1987, must file a report. Entities are considered "ten million dollar defense contractors" when the aggregate amount paid by the Department of Defense on all the entity's contracts total ten million any time during the fiscal year. Entities that are required to file a report are those that were considered ten million dollar defense contractors two years prior to the calendar year of the report.

For example, contractors appearing on the Fiscal Year 1988 Ten Million Dollar Contractor List must file a report by April 1, 1990, if they have signed a defense contract for at least \$100,000 on or after April 16, 1987. If a contractor has not been awarded such a defense contract after that date, the contractor must send a letter stating this fact. This letter will serve as a "negative report" informing DoD that the contractor will not be submitting information on any employees. The "negative report" is necessary so that DoD can account for each contractor.

The Ten Million Dollar Contractor List is published each year in the Federal Register by December 15. A copy is sent to each listed contractor as an attachment to the letter DoD sends at the beginning of each calendar year to remind contractors of their obligation to file a report.

WHO DO THE REPORTS INCLUDE?

All defense contractors that meet the criteria set forth in the law are required to report to the Department of Defense those former DoD employees who meet the following criteria:

1. The corporation must have hired the former DoD employee during the two-year period after separation from DoD.
 - a. It is important that the reporting entity realize that the report is tied to the two-year period that follows the person's separation from DoD. If that two-year period expires before the defense contractor compensates the

*ATTACHMENT
TO ENCLOSURE*

former employee, that person would not be reported on any annual report. In other cases, a person would be reported on three consecutive annual reports when the two-year period spans over all of one and parts of two calendar years.

2. *The former DoD employee must have been compensated by the defense contractor during the calendar year preceding the report.*
3. *The former DoD employee must have*
 - a. *served in a civilian position while in government service for which the rate of pay is equal to or greater than the minimum rate of pay for Grade GS-13 Step 1 (CY87 - \$38,727, CY88 - \$39,501, CY89 - \$41,121);*
 - or*
 - b. *served in the DoD Armed Forces in a pay grade of O-4 (Lieutenant Commander/Major) or higher.*

WHAT TO REPORT?

The report must contain the following information for each individual reported:

1. *The name of the individual.*
2. *Complete identification of the DoD agency in which the individual was employed or served during the past two years of DoD service.*
3. *A detailed description of the work the individual performed during the last two years of DoD service.*
4. *A list of major defense systems on which the individual performed any work during the last two years of DoD service.*
5. *A detailed description of work that the individual is performing, or did perform, on behalf of the contractor during the calendar year preceding the report.*

6. *A list of each major defense system on which the individual is working or has performed work, on behalf of the contractor.*

NOTE: *In order to facilitate the reviewing process, we also request that you furnish a list of major defense systems for which your corporation is a prime contractor. The information is not a requirement of the statute, but would speed the reviewing process and would limit the amount of correspondence for additional information between the reviewing official and your entity. I have enclosed a copy of the recent list of major defense systems for your convenience.*

WHEN TO REPORT?

Reports covering a calendar year are due annually by April 1 of the following year. Individuals who were compensated during the preceding calendar year must be included if all other criteria in "WHO DO THE REPORTS INCLUDE?" are met.

Under the requirements of 10 U.S.C. 2397, enacted on November 8, 1985, certain former DoD employees are required to file DD Forms 1787, "Report of DoD and Defense Related Employment," within 90 days after employment with a major defense contractor. This is an individual reporting requirement under a separate statute, but the information reported by the individual is similar to the information required from defense contractors. A copy of each individual's form may be submitted by the defense contractor to satisfy its reporting requirements.

WHERE TO REPORT?

Please send reports to:

*Office of the General Counsel
Standards of Conduct Office
(2397c Program)
Room 3C960, The Pentagon
Washington, D.C. 20301-1600*

COMMON PROBLEMS AND HELPFUL HINTS

To alleviate some of the pain of preparing the report, the following responds to common problems and provides some helpful hints:

1. *All divisions of an entity, whether they have a contract with DoD or not, must be included in the report if the entity meets the criteria for filing.*

2. **Many defense contractors have confused the term hired and compensated. Individuals who meet the other criteria and who were compensated in the preceding calendar year must be reported. For example, a defense contractor hires and compensates a former DoD employee on September 1, 1987. The individual is included in their April 1, 1988 report. The individual is also compensated in 1988. The individual must again be reported in 1989. A xeroxed copy of the information previously submitted may only be used if the individual's duties have not changed.**
3. **If a contractor has no individuals to report, but meets the criteria under "WHICH CONTRACTORS ARE REQUIRED TO FILE?", the contractor must send a letter stating that it has no individuals to report. This letter serves as a "negative report" informing DoD that the contractor will not be submitting information on any employees. The "negative report" allows DoD to account for each contractor.**
4. **Consultants who meet the criteria under "WHO DO THE REPORTS INCLUDE?" must be reported whether they were compensated directly by the defense contractor or through an agency.**
5. **All those compensated by the contractor who meet the criteria, not just those working on a defense contract for the contractor, must be included in the report.**
6. **All those compensated by the contractor who meet the criteria, regardless of the type of duties performed while in government service, must be included in the report. For example, all former DoD employees who meet the criteria, not just those who were involved in procurement-related activities while with the government, must be reported.**
7. **An entity that includes in its report its subsidiaries or affiliates that are on the Ten Million Dollar Contractor List should list the subsidiaries and affiliates covered in the cover letter.**
8. **If an entity's name has changed within the last two years, please mention this in the cover letter.**

9. *If an entity sold divisions during the calendar year for which the report is being made, the entity is required to include those divisions in its report. For example, contractor X was a ten million dollar defense contractor during Fiscal Year 1988. In September, 1989, contractor X sold five of its operating divisions to several different corporations:*

Q - Is contractor X required to include in its 1990 report those individuals who were employed at the divisions that were sold even though they are no longer employed by the entity?

A - The employees of the former divisions were compensated by the entity during the Calendar Year relevant to the report. Therefore, the entity must report upon those individuals. The corporation that purchased the divisions would also report on those individuals if it were also a ten million dollar defense contractor and met the other criteria.

NOTE: If the entity cannot obtain the required information from the divested divisions, it must send a statement in writing explaining the circumstances.

Major Contributors to This Report

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