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STATEMENT OF
ROBERT F. KELLER, DEPUTY COMPTROLLER GENERAL OF THE UNITED STATES,

BEFORE THE
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to discuss our work concerning the Presidential ~~President's~~ Executive Interchange Program and the possibility of conflicts of interest in such a program.

The issue of conflict of interest is, of course, not confined to the Interchange Program. The ever increasing activities of the Government and the interaction with the private sector have of course sharpened the issue. Some of the more obvious factors which have resulted in growing concern about actual or potential conflicts of interest are:

--The growth of Government, in terms of programs and activities;

--The regulatory, financially supportive, and other programs of the Government which affect the daily affairs of business and industry;

--The dependence of Government on the expertise of the private sector;

--The mobility of individuals in employment, facilitating a constant flow of individuals in and out of Government.

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As a part of our effort in this area, we have issued reports on the Federal Power Commission, the Federal Maritime Commission, the Civil Aeronautics Board, the United States Geological Survey and our most recent report concerning the Department of Interior on apparent or potential conflict of interest situations. We are also currently doing work at five other departments, agencies, and commissions with plans for additional work on the subject.

As a result of a request dated April 4, 1974, from Congressman Charles A. Vanik, we examined the background and employment of four Presidential Executive Interchange Program personnel with oil or related industry backgrounds working at the then Federal Energy Office. Congressman Vanik asked that we consider any potential conflict of interest problems. In response to this request we issued two reports, one on May 3, 1974, and one on June 24, 1974.

In the first report, concerning Mr. Robert C. Bowen, we found his duties and responsibilities, including his involvement in commenting on FEO's policies and regulations as they related to the oil industry, created a potential conflict of interest situation. We forwarded a copy of the report to the Department of Justice for such investigation and action deemed warranted by that Department.

Our second report concerned three more Interchange Personnel. In our opinion one of these individuals--Mr. Edmond R. Western--worked in a position where he could affect FEO policies and regulations regarding the private industry concern he represented. Accordingly, we also forwarded a copy of this report to the Department of Justice for their consideration.

Subsequently, Congressman Vanik on May 7, 1974, requested a review of the Presidential Executive Interchange Program.

In response to the Congressman's request, we examined the President's Commission on Personnel Interchange (PCPI) and Civil Service Commission (CSC) files and documents and interviewed 15 program participants from the Departments of Commerce, State, and the Treasury, the Federal Energy Administration, the Environmental Protection Agency. We concentrated on private executives assigned to Government agencies because of the impact their assignments could have on policy making and agencies' operations.

After a study in 1968 by the National Institute of Public Affairs and a report in 1969 by the Presidential Advisory Panel on Personnel Interchange demonstrated the feasibility and applicability of a formal program of executive interchange, President Johnson issued Executive Order 11541 establishing PCPI. PCPI was directed to develop, supervise, and review the operations of the exchange program with the CSC furnishing administrative services, staff support and travel expenses.

PCPI established four objectives for the program:

--To achieve better understanding and relationship between Government and the private sector,

--To exchange new and effective management techniques,

--To enhance professional growth of participating middle management executives,

--To develop a group of experienced executives for future Government service.

One hundred and eighty private sector employees and 88 Government employees participated in the program from the first exchange in 1971 through September, 1974.

PCPI staff visit companies each year to discuss plans for private sector participation and to screen potential nominees. Applications from Federal nominees are not screened, but those found unqualified are notified that there are no positions requiring their particular skills.

The specific interchange assignment is a mutual agreement between the participant and the agency or company extending the offer. Nominees may decline any assignments offered in which they have no interest and may also negotiate with agencies or companies for positions not originally offered for the program.

We found no evidence in the files that political consideration existed in the selection of interchange candidates, or that persons were solicited in advance to work in specific agencies, and channeled through the program to avoid normal hiring channels.

PCPI's staff, to eliminate any potential assignments which might present conflicts of interest,

-- Requests companies to review any State conflict of interest statutes,

-- Advises candidates of applicable statutes, makes available documents on conflicts, and secures acknowledgement that candidate has received publications,

-- Eliminates questionable prospective assignments,

-- Requests review of prospective positions by the organizations' General Counsels.

--Arranges for CSC's General Counsel to brief participants during orientation,

--Advises participants not to accept transfers or details without PCPI's written approval,

--Counsels participants, after assignments are underway, on the need to avoid conflicts.

Agencies also are sensitive to conflict possibilities and have taken additional steps to prevent them.

Title 18 of the U.S. Code, sec. 209 (b) allows business employees to accept employment in the Government on a leave-of-absence without jeopardizing their fringe benefits. Most sponsoring companies allow their executives to retain life and health insurance and stock already acquired through purchase and option plans. For most private sector Interchange executives the largest financial tie is probably continued reemployment interest with their sponsoring firm. This depends on the firm's policies, and several executives stated there were no legal obligations to rehire them.

A Presidential Interchange Executive entering the business sector from his Federal agency is on a leave-without-pay status. Life insurance and health benefits continue without financial contribution by the participant or his agency and retirement credit for service in leave-without-pay status is given for up to 6 months in any calendar year. Also agencies must consider Interchange executives for any promotional opportunities that arise while they are on leave-without-pay. As with the private executives, the largest financial tie for Government executives is a guarantee of reemployment with the sponsoring agencies.

To evaluate the satisfaction of executives, companies and agencies with the program and the success of the program in creating a better understanding and working relationship between Government and the private sector, PCPI instituted surveys in which questionnaries are sent to participants, supervisors, participating companies and Federal agencies. These evaluations showed that participants thought the experience was beneficial.

Almost all the Government executives and about half the industry executives reported that their jobs exceeded their expectations. On the analyzed questionnaires, close to 90 percent of the executives indicated they would recommend continued participation by their sponsors. Based on their experiences, an overwhelming percentage of executives felt that there was increased understanding of the problems of the other sector.

Of the 134 participants for fiscal years 1971, 1972, and 1973, two from industry stayed with the Government and two Government participants did not return to their agencies. One of them stayed with his host company and the other transferred to another Government agency.

Complete 1974 statistics were not available at the time of our review. There were eighty participants and, as of October 1, 1974, three from industry were staying with the Government and three from Government were staying with industry.

As mentioned earlier, in the course of our work we reviewed the cases of 15 program participants assigned to the Department of Commerce (10); Department of State (1); Department of the Treasury (1); the Federal Energy Administration (1) and the Environmental Protection Agency (2). Based on the facts available to us we found no evidence of apparent or actual conflicts of interest and so reported in a letter to Congressman Vanik dated January 20, 1975.

In conclusion we would certainly agree that a program of this type must be administered in such a way as to carefully avoid a conflict of interest or even the possibility of a conflict. This can be accomplished by careful selection of assignments, which places the participant in a position where his duties would not involve any relationship with his career employer. However, we do not believe that the possibility of conflicts of interest is inherent in the concepts of the program to any greater degree than is the case of employment by the Federal Government of individuals from private industry or other organizations, the employment of consultants, or the use of advisory groups.