

GAO

Report to the Chairman, Committee on
Post Office and Civil Service, House of
Representatives

March 1988

PERSONNEL
PRACTICES

Federal Employees
Detailed From DOD to
the White House



041698



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

General Government Division

B-229415

March 14, 1988

The Honorable William D. Ford
Chairman, Committee on Post Office
and Civil Service
House of Representatives

Dear Mr. Chairman:

Your May 21, 1986, letter forwarded a request by the Chairwoman, Subcommittee on Civil Service, and the Chairman, Subcommittee on Human Resources, that we review the detailing of federal employees to the White House. The chairpersons' request said that while the number of White House employees had reportedly been diminishing over the last 6 years, there was evidence that the White House staff was being increasingly augmented by employees detailed from other agencies. They asked that we examine detailing activities over the previous 6 years, with particular attention to the detailing of Schedule C employees. These employees are excepted from competitive appointment procedures because of their policymaking role or their confidential working relationship with the agency head or other top appointed agency officials.

As agreed in discussions with the Subcommittees, our July 22, 1987, report, entitled Detailing of Federal Employees to the White House (GAO/GGD-87-102BR), covered all cabinet-level departments except the Department of Defense (DOD). In subsequent discussions, the Subcommittee on Civil Service requested that we provide a similar report addressing the detailing of DOD employees to the White House.

This report, as well as the July 1987 report, focuses on federal employees detailed during fiscal years 1980 through 1985 to those White House offices covered by Public Law 95-570. The law requires that the President report to Congress the number of employees detailed to five White House offices for more than 30 days in a fiscal year. The law also requires the White House to reimburse detailing agencies for employees performing White House functions for more than 180 days in a fiscal year.

The White House underreported the number of employees detailed from DOD. In addition, DOD did not bill the White House for employees detailed more than 180 days in a fiscal year, nor did the White House reimburse DOD for such employees even though, according to DOD, some of the employees were performing White House functions. Further, discussions with DOD officials as well as our analysis of the relationship between

requests for personnel for non-DOD functions. The Deputy Assistant Secretary of Defense (Administration) is to maintain necessary records and required reports on employees assigned to perform non-DOD functions and serve as the focal point for information on such assignments. DOD components are to obtain from each non-DOD agency a memorandum of agreement specifying (1) conditions which govern the assignment of personnel, (2) the length of the assignment when it is longer than 90 days, and (3) reimbursement procedures.

DOD components are responsible both for ensuring that the agreed-upon reimbursement is received and for preparing quarterly reports for the Deputy Assistant Secretary which identify personnel assigned over 90 days to non-DOD activities. The directive specifies the non-DOD organizations to which the reimbursement and reporting requirements apply. In addition to other executive branch departments and agencies, the directive specifies the White House Office, Executive Office of the President,¹ National Security Council, Office of Telecommunications Policy, Council on Environmental Quality, President's Foreign Intelligence Advisory Board, and Vice President's Office.

According to DOD officials, actual practice differs in some respects from what is prescribed in the DOD directive. For example, request approval and record maintenance are the responsibilities of the Assistant Secretary of Defense (Force Management and Personnel) and the DOD Executive Secretariat, respectively. DOD is in the process of revising the directive to incorporate changed responsibilities and other policy and procedural changes. A draft of the revised directive recognizes that details to the White House offices specified in Public Law 95-570² are to be on a reimbursable basis following completion of 180 calendar days within a fiscal year, unless there is a clear showing of greater benefit to DOD.

On December 21, 1987, Congress passed new legislation (Public Law 100-202) which requires that executive branch agencies submit annual reports to the Senate and House Committees on Appropriations on employees they detail to other agencies, including the White House.

¹The Executive Office of the President encompasses the Office of Administration, the Executive Residence at the White House, and the Office of Policy Development. It also includes the other components cited in the directive except for the Office of Telecommunications Policy, which was abolished effective March 26, 1978. At that time, certain functions were transferred to the President and other functions were transferred to the Department of Commerce.

²The directive excludes the Executive Residence at the White House because DOD does not detail personnel to this office.

The personnel listed in the reports are only those who were at the White House on the dates of the reports. Some of them had been on detail since the fiscal years 1980 through 1985 period. However, DOD could not provide us information on any other detailees who may have been at various components of the Executive Office of the President during fiscal years 1980 through 1985 but were not still there on the dates of the reports provided to us. Also, because the DOD directive only requires that the quarterly reports include personnel detailed for more than 90 days, personnel detailed for less than 90 days would not have been reported. Consequently, more personnel may have been assigned to one or more of the White House offices covered by Public Law 95-570 than we have identified in this report.

Our audit work at DOD and the White House took place from July 1986 through July 1987 in conjunction with our prior report and also from October 1987 through November 1987. Our work was done in accordance with generally accepted government auditing standards.

Underreporting of DOD Employees Detailed to the White House

During fiscal years 1980 through 1985, DOD and White House records showed DOD employees were detailed to the White House Office, the Office of the Vice President, and the Office of Administration. The White House underreported the number of DOD employees detailed to these three offices for each of the 6 years. Table 1, based on DOD and White House records, shows the extent of the underreporting for fiscal years 1980 through 1985 as best we could determine. Because complete DOD records were not available for fiscal years 1980 through 1985, additional DOD personnel may have been detailed but not reported by the White House.

In its reports to Congress, the White House also included one DOD employee assigned to a unit outside of the White House offices covered by Public Law 95-570 and five military personnel.³ These six people are not included in the table. Similarly, the table does not include 54 other military personnel and 38 other civilian personnel assigned during fiscal years 1980 through 1985 to components of the Executive Office of the President not covered by Public Law 95-570.

³Military personnel are not subject to the reporting and reimbursement requirements of Public Law 95-570 because they are not federal employees for purposes of applying the public law.

requirement to report arises without reference to the duties performed or to the payment of reimbursement. All employees detailed to the five components listed in Public Law 95-570 are detailed under the authority of that law. Thus, the failure to report the employees detailed to the White House and working in the Office of Presidential Personnel is a violation of section 3a of Public Law 95-570 (3 U.S.C. 113).

If any employee detailed to the Office of Presidential Personnel is spending all or most of the time working on personnel issues involving the detailing agency, he or she would be exempt from the 180-day reimbursement requirement. If, however, the detailee's time is spent on general personnel issues or on personnel issues not involving the agency, the reimbursement requirement would apply. We do not believe that the centralization of personnel processing for presidential appointments is sufficient to confer a blanket exemption from the reimbursement requirements for all employees detailed to the Office of Presidential Personnel. Thus, as we said in our prior report, in those cases where detailed employees are not working primarily on matters involving their agency, the failure to reimburse the affected agencies is a violation of section 3a of Public Law 95-570 (3 U.S.C. 112).

Before issuing the earlier report, we discussed this matter with officials in the White House's Office of Administration. They agreed that, in most cases, the detailees assigned to the Office of Presidential Personnel were not performing duties related to the mission of their agencies and were subject to the reporting and reimbursement requirements of Public Law 95-570. They said that future reports to Congress would include these detailees where appropriate.

No Billing or Reimbursement for Employees Detailed to the White House Over 180 Days

During fiscal years 1980 through 1985, DOD did not bill the White House for employees detailed over 180 days who performed White House functions, and no reimbursement was made. Defense officials said they were not aware that the reimbursement requirement applied to details to the White House. Based on information available, we could not calculate the amount of money the White House should have reimbursed DOD, although according to DOD officials, in some cases reimbursement should have been made.

White House Office officials said they have instituted new procedures, effective at the beginning of fiscal year 1988, to ensure that (1) all detailees to that office are properly reported to Congress and (2) agencies are reimbursed when appropriate. An official in the Office of

Although there is no prohibition against detailing Schedule C employees to the White House or any agency other than the one to which the individual was appointed, we believe the use of the Schedule C authority to hire a person for a detail to the White House or any other agency is an inappropriate use of that authority. The purpose of the Schedule C authority is specifically to facilitate the employment of policymakers and confidential assistants for which the position is established. This purpose is frustrated when positions are created in the agencies for the White House's use. Our July 1987 report showed that other departments had also inappropriately used Schedule C appointment authority for details to the White House.

DOD officials acknowledge using Schedule C authority to hire persons specifically for the White House. Both they and White House officials believe that detailing Schedule C appointees to the White House is an efficient means of satisfying the White House's requests for detailees. The new procedures the White House and DOD have developed do not preclude the detailing of Schedule C employees.

Conclusions

In our July 1987 report, we concluded that, for fiscal years 1980 through 1985, (1) the White House underreported the number of detailees from 12 cabinet-level departments to the White House; (2) the departments were not billing the White House for their employees detailed over 180 days in a fiscal year to perform White House functions; and (3) the Schedule C appointment authority was being inappropriately used to hire individuals for details to the White House. This report shows that during fiscal years 1980 through 1985, the same circumstances existed with respect to employees detailed from DOD to the White House.

Both the White House and DOD have developed new procedures intended to ensure proper reporting of and reimbursement for employee details. However, neither the White House nor DOD have developed procedures to prevent the use of the Schedule C appointment authority to hire individuals for details to the White House. Both believe the detailing of Schedule C appointees is an efficient way for agencies to assist the White House. We recognize that using Schedule C staff specifically for the White House may be less disruptive of agency operations than would the detailing of career employees. Nevertheless, it is not an appropriate use of Schedule C hiring authority.

Detailees to the White House Identified Only by the Department of Defense^a Fiscal Years 1980-1985

Detailees grade/position	Schedule C	Date of C appointment	Dates of detail per DOD
GS-11/Special Assistant	Yes	3/29/83	4/83-indefinite
GS- 9/Secretary	Yes	1/27/80	1/80-indefinite
GS-14/Administrative Officer	Yes	4/19/81	4/81-indefinite
GS-9/Secretary/Stenographer	Yes	1/08/84	1/84-indefinite
b /Analyst	No	N/A	7/84-9/86

^aNone of these detailees, whom DOD identified as working in the Office of the Vice President, were reported by the White House

^bGrade not available

Requests for copies of GAO publications should be sent to:

**U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877**

Telephone 202-275-6241

The first five copies of each publication are free. Additional copies are \$2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

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

**Official Business
Penalty for Private Use \$300**

**First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100**

Detailees Not Identified by DOD or Reported by the White House^a

Fiscal Years 1980-1985

Employee	Schedule C	Date of C appointment	Dates of detail
1 ^b	Yes	04/10/83	03/15/83-03/15/84
2	No	N/A	07/05/83-07/21/84
3	Yes	09/25/81	08/24/81-04/24/82
4 ^c	Yes	12/21/82	02/06/83-03/01/83
5	Yes	07/08/85	07/08/85-Indefinite

^aThe White House identified these detailees as being assigned to the Presidential Personnel Office, but previously did not believe they should be reported. According to the White House, information on these detailees is not available for periods prior to January 21, 1981.

^bAlso received a Schedule C appointment from the State Department on September 22, 1983.

^cAlso detailed from the Department of Health and Human Services and the State Department.

Detailees Reported by the White House^a

Fiscal Years 1980-1985

Employee	Schedule C	Date of C appointment	Dates of detail
1	Yes	07/13/80	06/01/80-01/20/81
2	No	N/A	01/15/80-02/15/80
3	No	N/A	01/21/80-05/21/80
4	Yes	11/18/79	10/21/79-04/17/80
5	No	N/A	07/06/70-12/31/81
6	No	N/A	06/06/80-09/30/80
7	Yes	09/25/81	09/25/81-03/01/82
8	No	N/A	10/05/81-12/04/81
9 ^b	No	N/A	04/11/82-07/31/82
10 ^c	Yes	08/01/82	08/01/82-04/09/83
11	No	N/A	04/11/83-06/30/83
12	No	N/A	09/07/83-11/18/83
13	Yes	06/19/83	06/01/83-01/11/84
14	No	N/A	01/10/83-03/30/83
15	No	N/A	01/09/84-08/10/85
16	Yes	02/27/84	02/27/84-06/15/85
17	No	N/A	10/15/84-12/03/84
18 ^d	No	N/A	04/04/82-11/05/82
19	No	N/A	10/31/83-04/30/84
20 ^e	Yes	08/24/81	06/17/81-08/22/81
21	Yes	06/30/83	06/09/83-Indefinite

^aDOD could not verify details for these employees

^bAlso detailed from Department of Transportation

^cAlso detailed from Department of Energy.

^dAlso detailed from Department of the Interior and Department of Energy

^eAlso detailed from Department of the Interior and the Small Business Administration (SBA) Based on OPM and White House records, this individual received a Schedule C appointment at SBA 2 days after completing the DOD detail to the White House

Contents

Letter	1
Appendix I Detailees Reported by the White House Fiscal Years 1980- 1985	14
Appendix II Detailees to the White House Identified Only by the Department of Defense Fiscal Years 1980- 1985	15
Appendix III Detailees Not Identified by DOD or Reported by the White House Fiscal Years 1980- 1985	16
Table	6

Table 1: Department of Defense Employees Detailed to the White House Office, the Office of the Vice President, and the Office of Administration During Fiscal Years 1980 Through 1985

Abbreviations

DOD	Department of Defense
OPM	Office of Personnel Management
SBA	Small Business Administration

Current OPM regulations generally prohibit the intra-agency detailing of certain employees within 3 months of a competitive appointment. However, there are no OPM regulations pertaining to the interagency detailing of Schedule C employees. We believe that an OPM regulation is needed to preclude the inappropriate use of Schedule C authority. A limitation on detailing Schedule C appointees would not preclude the White House or any federal agency from using Schedule C employees to help meet its staffing needs. Even with a limitation on the detailing of Schedule C employees, the White House and each agency would still have the option to directly appoint and pay its own Schedule C employees.

Recommendation to the Director, OPM

We recommend that the Director issue regulations prohibiting the detailing of Schedule C appointees within 90 days of appointment.

As requested by the Subcommittee on Civil Service, we did not obtain official comments from DOD or the White House. We did, however, discuss the factual content of our report with DOD and White House officials, who generally agreed with the facts presented but provided some technical clarifications. However, DOD and White House officials believe the detailing of Schedule C employees to the White House should be continued. We also discussed our recommendation with OPM, which agreed to consider it.

As arranged with the Subcommittee on Civil Service, we plan no further distribution until 30 days from the date of this report unless you or the Subcommittee Chairwoman publicly announce its contents earlier. At that time, we will send it to interested parties and make copies available to others upon request. If you have questions, please contact Rosilyn Kleeman at 275-6204 or Bernard Ungar at 275-5074.

Sincerely yours,



Richard L. Fogel
Assistant Comptroller General

Administration told us that functions performed by employees in the Office of Presidential Personnel have been reviewed and interagency agreements calling for reimbursement after 180 calendar days of service have been entered into with the lending agencies.

According to the Office of Administration official, the White House Personnel Office is keeping closer contact with agencies' White House Liaison Officers so that promotions and personnel additions are properly documented and monitored. To further ensure proper reimbursement for detailees, the financial office in the Office of Administration has been instructed to closely enforce interagency agreements so that proper documentation exists for each detailee. He said the White House Office, in accordance with the new procedures, will monitor those agencies that do not request reimbursement. However, the official maintained that responsibility for requesting payment must remain with the detailing agency.

The Office of Administration official said the other four offices covered by Public Law 95-570 have been notified of our findings and the actions taken by the White House Office. He said each of them has agreed to institute procedures similar to those instituted by the White House Office.

Inappropriate Detailing of Schedule C Appointees

Fifteen of the 31 DOD detailees to the White House offices specified in the public law were Schedule C appointees. Some Schedule C appointment dates were the same as, or very near, the dates the employees were detailed to the White House. Therefore, it appears that DOD hired Schedule C employees for details to the White House.

In four instances, the Schedule C employees were detailed to the White House on the day of their Schedule C appointments. Another nine were detailed within approximately 1 month of their Schedule C appointment dates.⁴ The other two had Schedule C appointment dates 7 weeks before and 6 weeks after their details began. Based on OPM and White House records, a sixteenth DOD detailee to the White House Office received a Schedule C appointment at the Small Business Administration (SBA) 2 days after completing the DOD detail at the White House. She became an SBA detailee to the White House on the day before her SBA Schedule C appointment date.

⁴For four of the nine detailees, only the month and year of their beginning detail dates were available.

Table 1: Department of Defense Employees Detailed to the White House Office, the Office of the Vice President, and the Office of Administration During Fiscal Years 1980 Through 1985

	Fiscal years						Total ^a
	80	81	82	83	84	85	
Total number of detailees	7	7	9	13	13	10	31
Number of detailees at the White House over 30 days	7	6	9	11	13	10	30 ^b
Number of detailees over 30 days reported to Congress by the White House	6	3	6	6	6	4	21 ^c
Number of detailees at the White House over 180 days	2	2	3	4	9	8	14 ^c
Number of detailees over 180 days reported to Congress by the White House	1	1	0	1	4	3	6 ^c

^aThe totals represent all individuals shown in either DOD or White House records as detailed to the three White House offices during the 6-year period. Some individuals served during more than 1 year and are counted under each fiscal year they served, but are counted only once in the total column.

^bIncludes four individuals who were detailed from DOD and another agency during the period.

^cIncludes one individual who was detailed from DOD and another agency during the period.

Information about individual detailees that was used to compile this table can be found in appendixes I, II, and III.

DOD identified five of the unreported detailees as being assigned to the Office of the Vice President. All of them were detailed for more than 180 days in at least one fiscal year and, according to DOD, were performing White House functions.

In our July 1987 report, we pointed out that many of the detailees from the other departments whom the White House did not report to Congress as required were assigned to the Office of Presidential Personnel, a component of the White House Office. Five of the 31 DOD detailees worked in the Office of Presidential Personnel more than 30 days in a fiscal year. Only one of the five was reported by the White House. Three of the five worked more than 180 days in a fiscal year; none were reported.

Officials of the Office of Administration told us the functions of the Office of Presidential Personnel were traditionally done by the agencies concerned but were centralized in the White House by the current Administration. They said that as a result, the employees were considered to be furthering the mission of their agencies and thus not subject to the reporting and reimbursement requirements of Public Law 95-570.

Our July 1987 report concluded that the President's annual reports should have included all employees detailed for more than 30 days. Th

These reports are to include, without regard to the length of the detail, military and civilian personnel. However, this requirement does not apply to military and civilian personnel detailed to or from certain specified agencies having missions which include intelligence functions.

Objective, Scope, and Methodology

Our objective was to identify Schedule C and other federal employees detailed from DOD to the five White House offices during fiscal years 1980 through 1985, the years covered in our prior report, and to determine whether appropriate reimbursements for these detailees were made to DOD.

We examined White House reports to Congress for fiscal years 1980 through 1985 and other data showing the number and length of employee details and available supporting documentation. We visited the DOD Office of Assistant Secretary of Defense (Force Management and Personnel) responsible for handling White House requests for detailees and reviewed available records to identify (1) any detailees to the White House for over 30 days who should have been included in the White House reports but were not and (2) any detailees over 180 days for whom reimbursement may be required. We also reviewed records of the Executive Office of the President's Office of Financial Management to determine if reimbursements were made for all detailees over 180 days who were performing White House functions. To identify Schedule C detailees, we compared a listing of Schedule C appointees provided by OPM to the names of detailees obtained from the White House and DOD. We did not verify OPM's data.

The limited availability and nature of records hampered our ability to develop complete information on the number of DOD employees detailed to the White House offices specified in Public Law 95-570. According to a DOD official, no DOD reports on personnel assigned to non-DOD activities for fiscal years 1980 through 1985 were available. The DOD reports that were made available to us, which are discussed below, are not specific enough in some instances to determine which personnel were assigned to the White House offices specified in the law. For example, the reports show personnel assigned to the "Office of the President," which is not a specific White House office.

At different times during the course of our review, DOD provided us with reports dated June 22, 1987, and October 21, 1987, listing personnel assigned to the Executive Office of the President. DOD officials also gave us a third report that they said was current as of November 21, 1986.

Schedule C appointment dates and beginning detail dates indicate that DOD hired Schedule C employees for details to the White House. This is an inappropriate use of the Schedule C appointment authority. To correct this problem, we are recommending that the Office of Personnel Management (OPM) prohibit the detailing of Schedule C employees within 90 days of appointment.

Background

A detail is the temporary assignment of an employee to a different position in the same or another agency for a specified period, with the employee returning to his or her regular duties at the end of the detail. Under principles of appropriations law, when federal employees are detailed to other agencies, the lending agencies must be reimbursed for the costs of the employees unless the details will aid the lending agencies in accomplishing a purpose for which they received appropriations.

There is, however, a statutory exception to the reimbursement requirements for employee details to the White House. Under this exception, which was provided by Public Law 95-570, dated November 2, 1978, employees can be detailed to five specified offices of the White House on a nonreimbursable basis for up to 180 calendar days in a fiscal year. Those offices are the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development, and the Office of Administration.

The law requires the White House to reimburse the lending agencies for such details extending beyond 180 calendar days during the fiscal year when the detailees are performing services which have been or would have been otherwise performed by an employee of the White House. Therefore, reimbursement must be made for detailees who are primarily performing White House functions and not primarily performing functions furthering the mission of the detailing agency.

In addition, the law requires the President to report annually to Congress on (1) the number of employees detailed over 30 days in a fiscal year to the five specified offices in the White House regardless of duties performed and (2) the reimbursements made to agencies for employees detailed more than 180 days in each fiscal year.

Department of Defense Directive 1000.17, dated May 31, 1977, addresses DOD personnel assigned outside the department to perform non-DOD functions. Under the directive, the Special Assistant to the Secretary and Deputy Secretary of Defense must approve or disapprove all
