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United States Government Accountability Office
Washington, DC 20548

June 9, 2005

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable Danny K. Davis
Ranking Minority Member, Subcommittee on
Federal Workforce and Agency Organization
Committee on Government Reform
House of Representatives

Subject: *Conversions of Selected Employees from Noncareer to Career
Positions at Departments and Certain Agencies*

According to the Office of Personnel Management (OPM), a “conversion” occurs whenever an employee changes from one personnel “status” or “service” to another without a break in federal government service of more than 3 days. There are many kinds of conversions. This report focuses on one type of conversion, i.e., employees converting from noncareer to career positions. Conversions of individuals from noncareer to career positions must conform to applicable regulations and qualification requirements.

As requested, we are providing you with information on the number of employees who were converted from noncareer to career positions during the 32-month period from May 1, 2001, through December 31, 2003, as reported to us by 41 departments and agencies. The types of positions this letter covers and a definition of each, along with the criteria we used to select the 41 departments and agencies, are listed in the scope and methodology section.

As agreed with your offices, we will report at a later date on conversions reported by departments and selected agencies from May 1, 2001, through April 30, 2005. That report will discuss (1) the number of all conversions occurring during that 4-year period; (2) for each of these conversions, characteristics of the noncareer positions previously held by employees and the career positions to which they were converted; and (3) whether the departments and selected agencies followed appropriate authorities and proper procedures in converting employees holding noncareer positions to career positions at the GS-12 level and above.

Results

On the basis of data submitted by the 41 departments and agencies and our discussions with them, 77 individuals holding noncareer positions were converted to career positions during the 32 months from May 1, 2001, through December 31, 2003. These conversions were reported by 18 of the 41 departments and agencies we surveyed. The other 23 departments and agencies reported no conversions during this period. Forty-four (57 percent) of the 77 reported conversions were made by three departments: the Departments of Defense (17), Justice (17), and Health and Human Services (10).¹ (See encl. I for a more detailed list of departments and agencies reporting conversions from May 1, 2001, through December 31, 2003.)

Agency Comments

We provided a draft of this report to OPM for their review and comment. OPM agreed with the facts presented in this report, and provided some technical clarifications, which we incorporated as appropriate. In particular, OPM asked that we further clarify that some of the individuals moving from noncareer to career positions as discussed in this report, had previously held career positions (prior to being appointed to the noncareer positions from which they were being converted).

Scope and Methodology

For the purpose of this review, we identified seven categories of noncareer positions, defined below. Individuals holding noncareer positions may have previously held career positions. For example, limited-term Senior Executive Service (SES) and limited-emergency SES positions are often filled by federal employees who have previously held career positions and achieved career status.

- 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.
- Noncareer SES: Appointments are to positions with responsibility for formulating, advocating, and directing administration policies. Noncareer SES appointees have no tenure and 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.
- Limited-emergency SES: Appointments may be made for up to 18 months to meet a bona fide, unanticipated, urgent need.

¹The 77 conversions from noncareer to career status discussed in this report represent about 0.01 percent of the more than 74,000 conversions of all types made governmentwide during this time frame. Within the Senior Executive Service (SES), the 38 conversions discussed in this report represent about 2.8 percent of the 1,359 conversions of all types made governmentwide during this same period.

- 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.
- Other statutory at-will employees: Sometimes called administratively determined positions. Certain agencies have specific authority to appoint individuals to these positions noncompetitively. Appointees serve at the pleasure of the agency head and can be removed at will and the salary levels can be determined by the agency head within certain limits.

We identified four categories of career positions, defined as follows:

- Career (competitive service): Appointments are made through a governmentwide or "all sources" merit staffing (competitive) process, including recruitment through a published announcement, rating and ranking of eligible candidates, and establishment of OPM-created or approved qualification standards.
- Career-conditional (competitive service): Appointments are for permanent positions in the competitive service and are generally the initial positions for new hires. Appointees must complete a 1-year probationary period and a total of 3 years of continuous creditable service to attain a career appointment.
- Career (SES): Appointments are to top-level policy, supervisory, and managerial positions in most federal agencies. The SES includes most Civil Service 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.
- Excepted Service (Non-Schedule C): Appointments involve positions within agencies that are not required to use OPM's competitive hiring examination. These agencies have authority to establish their own hiring procedures to fill excepted service vacancies. Most excepted service employees, with the exception of Schedule C, have adverse action appeal rights to the Merit Systems Protection Board.

The criteria used to select the executive branch departments and agencies for this review were: (1) all 15 departments, (2) agencies that had oversight or other regular responsibilities for federal workforce issues, and (3) agencies of particular interest to the congressional requesters of the review. Under these criteria, we identified 41 departments and agencies. These are listed in enclosure II.

To determine the number of employees who converted from noncareer to career positions, we asked the 41 departments and agencies to first complete a data collection instrument (DCI) for the selected conversions made from May 1, 2001, through December 31, 2003, and provide the information to us by April 15, 2004. To follow up on conversions made on or after January 1, 2004, we asked the departments and agencies to provide information on a monthly basis even if they had no conversions, beginning on May 15, 2004, through April 30, 2005.

Using the DCI, we asked the 41 departments and agencies to provide information about the career positions to which the individuals were converted, i.e., the position title, the pay grade, annual salary, and entered-on-duty date. We also asked the departments and 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 information that the departments and agencies provided on the DCI. We did not make judgments regarding the qualifications of former noncareer employees for the career positions to which they were converted.

We conducted our work in Washington, D.C. from March 2004 through May 2005 in accordance with generally accepted government auditing standards.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. We will also make copies available to others upon request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

Major contributors to this report were Carolyn Samuels, Terry Draver, Sarah Veale, Jeffrey McDermott, and Greg Wilmoth. Please contact me on (202) 512-6806 if you have any questions.



George H. Stalcup
Director, Strategic Issues

Number of Employees Converted from Noncareer to Career Positions from May 1, 2001, through December 31, 2003, as Reported by Certain Departments and Agencies^a

Departments and agencies	Number of conversions	Number of employees converted to Senior Executive Service (SES) positions	Number of employees converted to Competitive Service (non-SES) positions	Number of other conversions ^b
Department of Agriculture	1	0	1	
Department of Commerce	1	0	1	
Department of Defense	17	12	5	
Department of Education	1	1	0	
Department of Health and Human Services	10	8	2	
Department of Homeland Security	6	2	4	
Department of Housing and Urban Development	2	0	2	
Department of the Interior	1	1	0	
Department of Justice	17	1	0	16
Department of Labor	2	1	1	
Department of State	2	0	2	
Department of the Treasury	5	5	0	
Department of Veterans Administration	1	0	1	
Environmental Protection Agency	1	0	1	
Equal Employment Opportunity Commission	1	0	1	
General Services Administration	3	1	2	
National Aeronautics and Space Administration	1	1	0	
Office of Personnel Management	5	5	0	
Total	77	38	23	16

Source: GAO analysis of data based on department and agency responses to our data collection instrument.

^aThese data include employees who had previously held career positions prior to being appointed to noncareer positions, i.e., limited-term and limited-emergency SES positions, before they were converted to career positions, such as career SES positions.

^bOther conversions would include conversions to Non-Schedule C excepted service positions.

Executive Branch Departments and Select Agencies Covered in This Review

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

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