

Congress of the United States
Washington, DC 20515

November 20, 2015

The Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

Political appointees at Executive Branch departments and agencies sometimes seek positions as career government employees. Unlike political appointments, these positions do not end at the conclusion of a presidential administration. Such changes in employment status – whereby an individual transfers from a non-career, political position to a career position within the Executive Branch – are known as “conversions.” Conversions are permissible when agencies follow laws and regulations governing career appointments and political appointees do not receive unfair competitive advantages. Nevertheless, it is important for Congress to conduct periodic oversight to ensure that departments, agencies, and commissions are adhering to applicable laws and regulations.

Although the Government Accountability Office has “regularly reported on conversions from non-career to career positions in the past,”¹ GAO issued its most recent report on conversions of federal employees from political to career positions on June 28, 2010, more than five years ago. That report reviewed agency personnel actions from May 1, 2005, through May 30, 2009. Since that time, GAO has not conducted a review to determine the extent to which these conversions have occurred.

Title 5 of the U.S. Code and Title 5 of the Code of Federal Regulations govern appointments to career federal civil service positions. Each agency and commission head is responsible for preventing prohibited personnel practices and adhering to the applicable merit principles. The relevant statutes and regulations are designed to ensure that the process for selecting career employees is fair, open, and free from political influence.

The Office of Personnel Management (OPM) is responsible for making sure that departments and agencies use fair practices with respect to personnel. According to OPM policy, effective January 1, 2010, “agencies must seek prior approval from OPM before they can appoint a current or recent political appointee to a competitive or non-political excepted service position at any level under the

¹ See, e.g., U.S. Gov’t Accountability Office (GAO), *Conversions of Selected Employees from Noncareer to Career Positions at Departments and Certain Agencies*, GAO-06-381 (May 1, 2006), at 3; GAO, *Conversions of Employees from Political to Career Positions May 2005-May 2009*, GAO-10-688 (June 28, 2010), at 2.

provisions of title 5, United States Code.”² OPM requires written authorization in order to appoint “a former political Schedule A or Schedule C Executive Branch employee who held the position within the last five years to a competitive or non-political excepted service position under title 5 of the U.S. Code” or “a former Non-career SES Executive Branch employee who held the position within the last five years to a competitive or non-political excepted service position under title 5 of the U.S. Code.”³ Since this policy went into effect more than five years ago, it is important to review its effectiveness to determine if any changes are warranted.

The possibility that political appointees are “burrowing in” – through favoritism in the selection process, effectively taking civil positions that would otherwise be open to the public and awarded based on merit – may affect the integrity of the merit-based federal workforce. Therefore, we are writing to request that GAO conduct a study to ensure that federal agencies and full-time commissions are following appropriate authorities and proper procedures in making conversions of non-career to career positions.

We ask that GAO review conversions in federal agencies and commissions, to be selected in consultation with our Committees, for the period from June 1, 2009 to October 1, 2015, as well as the implementation and effectiveness of the OPM policy that went into effect in 2010. This review should include, but not be limited to, the following information:

1. The number and type of conversions of political appointees to competitive service, non-political excepted service, senior executive service (SES), senior level (SL), or scientific or professional (ST) positions that have occurred, including the agency, office, titles, grades, dates of conversion, and salaries of the political and career positions.
2. An explanation of the outcome of each pre-employment review and an explanation for each case not approved.
3. The status of any corrective action requested by OPM of an appointing agency as a result of the pre-employment review process.
4. A list of each political appointee converted to a competitive service, non-political excepted service, SES, SL, or ST position for which the appointing agency did not provide sufficient information to justify the employment action, by agency, office, title, grade, date of conversion, and salary.
5. For each conversion for which it appears that an agency may not have followed appropriate procedures or used appropriate authorities, a detailed explanation of the issue, and OPM’s analysis regarding the appropriateness of the conversion.

² U.S. Office of Personnel Management, Memorandum for Heads of Departments and Agencies, Political Appointees and Career Civil Service Positions, John Berry, Director (Nov. 5, 2009).

³ *Id.*

We further suggest that the GAO continue to conduct periodic reviews in the future to ensure consistent application of these rules. Thank you for your attention to this important matter. We look forward to your prompt response to our request.

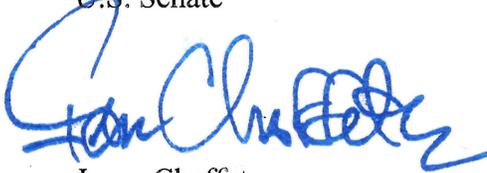
Sincerely,



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
U.S. Senate



John Thune
Chairman
Committee on Commerce, Science,
and Transportation
U.S. Senate



Jason Chaffetz
Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives



Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives

cc: The Honorable Thomas R. Carper
Ranking Member
Committee on Homeland Security and Governmental Affairs
U.S. Senate

The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
U.S. Senate

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives