
Defense Report

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Closing the Revolving Door—Have We Shut Out All The Talent?

Last October an amendment to the Office of Federal Procurement Policy Act was passed by Congress and quietly signed into law. Public Law 100-679 established new ethics rules for government officials including post-government employment. The legislation also provided criminal penalties for violations that included fines and imprisonment.

It was not until this new law was published in the Federal Register on May 11, 1989 that it stirred up major controversy and concern. The provisions of the law were highly ambiguous and were considered by many to be overly restrictive. At the request of the Administration, Congress authorized a 60-day extension to the legislation, moving the effective date from May to July.

The law, for the most part reinforces existing laws and thus is not objectionable. But, portions of the act are so ill-defined as to defy precise interpretation. At the same time, violations were made criminal offenses which creates a very uncomfortable and uncertain atmosphere and greatly reduces incentives for government service. Unless some clarifying modifications are made, specific issues may have to be determined by adjudication on a case-by-case basis; and with a criminal statute, who wants to be the first test case?

The effects of this well-meant but poorly crafted legislation are already being felt. Prior to the original effective date, a number of valuable people opted out of government service rather than being caught in this uncertain situation. Although there is no "body count" to date, it is known that additional exit decisions preceded the new date of July 16. The real problem now is to attract qualified people to fill key slots. In DoD, for example, a number of positions remain unfilled and potential nominees are legitimately gun-shy about entering federal service under these changing conditions.

There has to be a sensible solution—a set of rules that upholds standards and protects government interests but does not jeopardize an individual's future career just for serving his or her government. Otherwise, we'll have a devil of a time attracting high quality people to federal service.