

July 2008

POST-GOVERNMENT
EMPLOYMENT
RESTRICTIONS AND
FOREIGN AGENT
REGISTRATION

Additional Action
Needed to Enhance
Implementation of
Requirements





Highlights of [GAO-08-855](#), a report to congressional requesters

Why GAO Did This Study

Congress has enacted post-government employment restrictions and foreign agent registration requirements with the objectives of protecting the U.S. government against the improper use of government information by former federal employees and ensuring the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities. This report discusses (1) the extent to which selected agencies have information on the post-government employment activities of former senior federal employees who represent foreign principals and (2) the challenges the agencies face in enforcing these requirements. We reviewed federal ethics guidance, laws, and other documents, and interviewed officials at the Departments of State and the Treasury, the U.S. Agency for International Development and the U.S. Trade Representative.

What GAO Recommends

GAO recommends that the Office of Government Ethics strongly encourage the agencies to implement its suggestions for documenting ethics advice. Also, Congress may wish to consider granting Justice the authority to inspect records of persons Justice believes should be registered as foreign agents and requiring persons claiming exemptions to notify Justice. OGE concurred with our recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-855](#). For more information, contact Jess Ford at (202) 512-4128 or fordj@gao.gov.

POST-GOVERNMENT EMPLOYMENT RESTRICTIONS AND FOREIGN AGENT REGISTRATION

Additional Action Needed to Enhance Implementation of Requirements

What GAO Found

Executive branch agencies are not required to and do not collect and maintain information on the post-government employment activities of former senior federal employees who represent foreign principals. Post-government employment restrictions prohibit former senior federal employees from engaging in certain activities, such as lobbying or other advocacy communications, for a specified period of time after leaving federal service. The agencies we reviewed undertake a variety of activities, including providing training and advice, to promote compliance with the restrictions. The Foreign Agents Registration Act (FARA) requires that all persons in the United States working as agents of a foreign government, foreign political party, or other foreign principal disclose to the Department of Justice (Justice) such connections as well as the activities they perform on behalf of such principals in the United States. Justice provides information on FARA registration requirements to the public. It also collects information on all entities that register with Justice as foreign agents. However, the registration information does not identify individuals who are former senior federal employees. Nevertheless, of the nearly 8,000 senior federal employees who left government service between calendar years 2000 and 2007, we identified 29 who registered as foreign agents and engaged in activities that ranged from promoting tourism to lobbying on behalf of foreign principals such as the governments of Argentina and Saudi Arabia. This number may not include all former senior federal employees who represent foreign entities because individuals engaged in exempted activities under FARA, such as diplomatic, commercial, and legal activities, and those registered under the Lobbying Disclosure Act, are not required to register.

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with the post-government employment restrictions and monitoring FARA. One challenge is inconsistent documentation of advice provided to senior federal employees on post-government employment restrictions. While agencies document information such as ethics training courses given, subject matters covered, and counseling services offered, they do not consistently keep records of what advice was given to specific employees. The Office of Government Ethics (OGE) has encouraged the executive branch agencies to document such advice. For example, a 2005 OGE memorandum to all designated agency ethics officials discussed the advantages of documenting advice and offered suggestions on when to document ethics advice. Documentation of advice is useful for proving intent, which can help to prosecute violations of the restrictions. In addition, a lack of clear legal authority and a lack of resources have been cited by Justice as barriers to increased monitoring of FARA compliance. For example, Justice officials said the department does not have clear legal authority to inspect the records of persons that it believes should be registered and that the department does not have the authority to require advance written notification from persons claiming to be exempt from FARA requirements. Without advance written notification, Justice has no way of knowing whether persons exempting themselves should in fact be registered.

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Abbreviations

CPDF	Central Personnel Data File
DOD	Department of Defense
FARA	Foreign Agents Registration Act
OGE	Office of Government Ethics
OPM	Office of Personnel Management
USAID	U.S. Agency for International Development
USTR	Office of the U.S. Trade Representative

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United States Government Accountability Office
Washington, DC 20548

July 30, 2008

The Honorable Howard L. Berman
Chairman
Committee on Foreign Affairs
House of Representatives

The Honorable Frank R. Wolf
Ranking Member
Subcommittee on State, Foreign Operations and Related Programs
Committee on Appropriations
House of Representatives

Congress has enacted specific post-government employment restrictions¹ designed to protect the U.S. government from the improper use of government information or other undue influence by former government employees. The restrictions prohibit federal employees from engaging in certain activities, such as lobbying or other advocacy communications, for a specified period of time after leaving federal service. For example, the restrictions include a ban, for 1 year, on all senior and very senior employees² of federal agencies, Members of Congress, and congressional staff from performing certain representational or advocacy activities on behalf of a foreign government, before any U.S. government official, with the intent to influence a decision of the government official. The Office of Government Ethics (OGE) and executive branch agencies have implemented regulations and procedures to inform employees about the

¹For this report, the term post-government employment restrictions refers to the laws codified at 18 U.S.C. § 207, which contains restrictions on former officers, employees, and elected officials of the executive and legislative branches. Other ethics laws applicable to government employees, such as personal financial interest laws, are not addressed here.

²Senior-level officials include officers or employees of the executive branch paid on the Executive Schedule, and those who are paid at a rate under other authority that is equal to or greater than 86.5 percent of the basic rate of pay for level II of the Executive Schedule; military officers in a pay grade of 0-7 or above; and certain staff of the President and Vice President. Very senior level officials include those of the executive branch, including the Vice President, who are compensated at level I of the Executive Schedule, as well as employees of the Executive Office of the President and certain White House employees compensated at level II of the Executive Schedule.

restrictions. Individuals who violate the restrictions are subject to administrative, civil, or criminal penalties.³

In addition to these laws and other lobbying disclosure requirements, such as the Lobbying Disclosure Act of 1995 as amended,⁴ Congress has enacted the Foreign Agents Registration Act (FARA)⁵ to ensure that the U.S. government and the American people are informed of the source and identity of persons engaging in representational activities or otherwise trying to influence U.S. government policy on behalf of foreign entities. FARA requires anyone—including all individuals, not just former federal employees—representing foreign principals in certain activities to register with the Department of Justice (Justice) and file forms outlining their agreements with, income from, and expenditures on behalf of the foreign principal. FARA provides certain exemptions to registration, such as for diplomatic or humanitarian activities. Persons who engage in such activities on behalf of a foreign principal are not required to notify Justice they are claiming an exemption.

Our past work has found problems with the U.S. government's implementation of these laws. For example, in 1980 Justice officials stated that as a result of improperly taken exemptions, Justice believed that there were more active agents than those registered. Also, according to Justice then and now, exemptions, such as those allowed for commercial and legal activities, were broadly written and fostered differing interpretations. In addition, Justice stated that some changes could be made to improve enforcement of FARA, such as providing Justice with subpoena power for use in cases of suspected unregistered agents. In 1990, we reported that Justice had not implemented a 1980 GAO recommendation to seek authority to (1) give the Justice Department additional enforcement measures, including administrative subpoena powers, and (2) require individuals to submit written notification of all exemption claims prior to

³Agencies are required to report to the Attorney General any information, allegations, or complaints relating to ethics violations, including possible violations of the post-government restrictions. Executive agencies generally are required to inform OGE of such referrals. According to OGE's annual report on referrals to the Department of Justice (Justice), the agencies reported making about 88 referrals related to post-government restrictions from 2000 to 2007, which include all prohibitions contained in 18 U.S.C. § 207.

⁴2 U.S.C. §1601, et seq.

⁵22 U.S.C. §611, et seq.

engaging in the representation of a foreign principal.⁶ In 1991, Justice sought to obtain such authority; however, the 1991 legislation was not passed.⁷

In response to your request, we examined efforts by OGE, Justice, and four agencies involved in international activities to enforce post-government employment restrictions on former senior federal employees who represent foreign principals. This report discusses (1) the extent to which these agencies collect and maintain information on the post-government employment activities of these officials and (2) the key challenges the agencies face in enforcing post-government employment restrictions and FARA requirements.

To accomplish the first objective, we analyzed OGE guidance and other documents on post-government employment restrictions and Justice rules and regulations on FARA, and interviewed OGE and Justice officials. We also interviewed officials at selected executive branch agencies that work on issues directly related to bilateral relations, including the Departments of State (State) and the Treasury (Treasury), the U.S. Agency for International Development (USAID), and the Office of United States Trade Representative (USTR), and analyzed documents at those agencies to understand how the agencies notify employees of post-government employment restrictions. We also reviewed the procedures used by Justice's Registration Unit to identify and address unregistered agents. To identify the number of senior-level federal officials who registered as foreign agents after leaving government service between calendar years 2000 and 2007, we obtained a list from Justice of all individuals registered as foreign agents during those years, and provided these names to the Office of Personnel Management (OPM) to match against all executive branch senior federal employees in its Central Personnel Data File (CPDF). To accomplish the second objective, we reviewed past and proposed legislation and other documents describing agency regulations, policies, and procedures and interviewed OGE, Justice, State, Treasury, USAID, and USTR officials. We conducted our work from September 2007 to June 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to

⁶GAO, *Foreign Agent Registration: Justice Needs to Improve Administration*, [GAO/NSIAD-90-250](#) (Washington, D.C.: July 30, 1990).

⁷*To Strengthen the Foreign Agents Registration Act of 1938, as amended*, H.R.3597 102nd Congress.

obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Results in Brief

The agencies we reviewed are not required to and generally do not collect and maintain information on the post-government employment activities of individuals who leave federal employment, including former senior government employees who represent foreign entities. Instead the agencies primarily focus on providing training, information, and advice on the restrictions. OGE and the individual executive branch agencies, through their ethics programs, undertake a variety of activities to promote compliance with the post-government employment restrictions. Justice posts information on FARA requirements on its external Web site and collects and maintains information on all persons⁸ who register with the department as foreign agents. However, this information does not and is not intended to identify individuals who are former senior federal employees. Over 7,000 senior federal employees left government service between calendar year 2000 and 2007, according to OPM data. By matching these 7,000 names against Justice's registrants' database, we identified 29 former senior federal officials (most of whom were former State employees) who registered as foreign agents during this time and engaged in activities that ranged from promoting tourism to lobbying on behalf of countries such as Argentina, Indonesia, and Saudi Arabia. This number may not include all former senior federal employees who represent foreign entities because individuals engaged in exempted activities under FARA, such as diplomatic, commercial, and legal activities, and those registered under the Lobbying Disclosure Act of 1995, are not required to register.⁹

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with post-government employment restrictions and in enforcing and monitoring the registration requirements of FARA. One challenge described by some agency Inspector General and Justice officials is the lack of consistent written documentation of the advice

⁸For FARA purposes, the term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals. 22 U.S.C. § 611(a).

⁹This number would also not include any persons representing foreign principals who attempt to evade FARA by not registering.

given to senior federal employees on post-government employment restrictions. OGE disseminated a 2005 memorandum to all designated agency ethics officials encouraging them to document ethics advice. While some agencies document information such as ethics training courses given, subject matters covered, and counseling services offered, they do not consistently document specific advice given to specific employees regarding post-government employment restrictions. Inspector General officials at State, Treasury, and USAID, and an official of Justice's Criminal Division, said that documenting such information can also assist the agencies in proving the intent element of the law, which is needed to prosecute violations of the post-government employment restrictions. In 2008, in response to federal employees' complaints that ethics officers were in some cases declining requests for written ethics advice, OGE sent a message to 2,500 agency ethics officials reminding them to follow the suggested guidance presented in its 2005 memorandum. In addition, Justice cited barriers to increased monitoring of FARA compliance, including a lack of clear legal authority to inspect the records of persons that it believes should be registered and to require advance written exemption notifications. In 1991, Justice supported obtaining such authority but was not successful because the proposed legislation was not passed by Congress. Justice officials have stated that without such authority, Justice cannot inspect the records of persons it suspects should be registered as agents of foreign principals or collect information to help better identify persons who should be registered.

To enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities, Congress may wish to consider (1) granting the Department of Justice civil investigative demand authority to inspect the records of persons Justice believes should be registered as agents of foreign principals and (2) requiring persons claiming certain exemptions to provide advance written notification to Justice before engaging in the exempt activities.

In addition, to enhance compliance with the post-government employment restrictions, we recommend that the Director of the Office of Government Ethics strongly encourage agency ethics officials to implement the suggested actions described in the November 2005 OGE memorandum and its subsequent 2008 reminder to designated agency officials on documenting ethics advice and also encourage agency ethics officials to work closely with their Inspectors General to ensure that this information is shared when needed.

In responding to our draft report, OGE and Justice generally concurred with our findings and recommendations. OGE said that it had made several efforts recently to impress upon agencies' ethics officials the importance of documenting ethics advice when practicable. Justice said that the GAO report is useful; however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. However, Justice said that the agency would look forward to working with Congress if it chooses to move forward with legislation. Justice, OGE, State and Treasury also provided technical comments, which we have incorporated where appropriate. We have reprinted OGE's and Justice's comments in appendixes IV and V, respectively.

Background

In 1962, the U.S. government enacted conflict of interest laws that were designed to protect against the improper use of government information by former employees, as well as to limit the potential influence that a financial arrangement may have on current federal officials when dealing with prospective private clients or future employers while still in government service. Among other requirements, the post-government employment restrictions permanently prohibit former federal employees from representing a private company or organization before any federal agency on particular matters involving specific parties, which they personally and substantially handled while working for the federal government. The law also restricts former federal employees from representing anyone before the official's former agency for defined cooling-off periods that vary according to the former official's involvement and seniority. For example:

- Former personnel may not represent their new employer before their former agency on matters that were pending under their official responsibility in their last year of service, with the intent to influence any communication with the agency for 2 years after leaving government service.

-
- Former senior-level officers and employees may not contact their former agency with the intent to influence any matter on which the person seeks official action by the agency for 1 year after leaving the agency.¹⁰
 - Former senior and very senior federal employees, as well as former members of Congress and their staff, are prohibited from representing, aiding, or advising foreign entities with the intent to influence a decision of an official of an agency or department, the President, the Vice President, or Members of Congress for 1 year after leaving the position.

FARA requires all persons in the United States working as agents of a foreign government, foreign political party, or other foreign principal to disclose to Justice such connections, as well as the activities they perform on behalf of such principals in the United States. FARA was designed to ensure that the U.S. government and the American people are informed of the source of representational activity in the United States and the identity of persons attempting to influence U.S. public opinion, policy, and laws.

Under FARA, a person is considered an agent of a foreign principal when the person acts in any capacity at the order or request or is under the control, supervision, or financing of the foreign principal, and engages in the following within the United States:

- political activities for or in the interest of the foreign principal;
- public relations, information-service employment, or political consulting for or in the interest of the foreign principal;
- fundraising, collecting, or disbursing of money or things of value for or in the interest of the foreign principal; and
- representing the interests of a foreign principal before any agency or official of the U.S. government.

FARA requires individuals engaged in the listed activities to file a registration statement, which collects detailed information on the registrant and the activities he or she will perform on behalf of the foreign principal listed. Additionally, foreign agents are required to file a supplemental statement every 6 months for the duration of the foreign principal-agent relationship, providing updated information on the agent's activities. According to Justice, a statement is "detailed" within the

¹⁰Under the Honest Leadership and Open Government Act of 2007, the bar is now 2 years for very senior employees, and such employees are barred for 2 years from contacting any Executive Schedule personnel anywhere in the executive branch.

meaning of the Act when it has the degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by the registrant to achieve the purposes of the foreign principal-agent relationship. Certain activities, such as humanitarian, commercial, and legal activities, are exempt from FARA. Individuals and organizations engaging in such activities on behalf of a foreign entity are not required to register with Justice. Appendix II provides detailed definitions of the various exemptions. For individuals who willfully violate FARA requirements, Justice may pursue criminal and civil penalties, such as imprisonment and fines. According to Justice, it has prosecuted one violation of FARA since 1990.

Agencies Promote Compliance with Post-Government Employment Restrictions and Foreign Agent Registration Requirements

The agencies (State, Treasury, USAID, and USTR) we reviewed are not required to and generally do not collect and maintain information on and monitor the post-government employment activities of persons who leave government employment, including former senior government employees who represent foreign entities. The agency officials described a variety of activities they use to inform senior employees of the post-government employment restrictions. Justice collects and maintains information on all individuals who register with the department as foreign agents, but this information does not identify registrants who are former senior federal employees. We were able to identify 29 former senior federal employees who registered as foreign agents between 2000 and 2007.

Agencies Are Not Required to and Do Not Collect or Maintain Information on Post-Government Employment Activities

We found that agencies do not collect or maintain information on the post-government employment activities of former senior employees because they are not required to do so. While the agencies we reviewed provided training and advice on the post-government employment restrictions, none monitored or maintained information on the post-government employment activities of former senior employees. OGE and agency officials explained that they are not required to monitor such activities, although such information might be useful for identifying potential violations. As previously mentioned, we identified 29 former senior employees who left government service and registered as foreign agents under FARA between 2000 and 2007. Our review of the registration information indicates that 6 former senior federal employees were registered as agents of foreign principals during the 1-year cooling off period required by the post-government employment restrictions. However, the scope of our review did not include assessing compliance with the post-government

employment restrictions by any of the 29 former senior federal employees who registered as foreign agents.

Post-Government Employment Compliance Efforts

The executive branch promotes compliance with post-government employment restrictions through agency ethics-in-government programs, which are guided by OGE, a separate executive branch agency. Executive branch departments and agencies are required by law to have programs to implement provisions of the Ethics in Government Act of 1978¹¹, including reviewing and filing financial disclosure forms, implementing a program to educate employees on ethics standards, keeping records, and taking action when the standards are violated. OGE is responsible for providing overall direction to executive branch policies related to preventing conflicts of interests on the part of officers and employees of any executive agency. It carries out these responsibilities by, among other things, providing educational materials and training, developing executive branch ethics program policies and regulations, interpreting laws and regulations, assisting agencies in legal and policy implementation, and recommending changes in conflicts of interest and ethics statutes. The individual agencies are responsible for the day-to-day administration of their own ethics programs. The agencies we met with described a variety of activities they use to inform senior employees of the post-government employment restrictions, such as conducting training programs, disseminating information on internal Web sites, and providing information to departing employees.

- All of the agencies provide ethics orientations for new senior employees, which may include discussions of post-government employment restrictions.
- All of the agencies offer annual ethics training for senior employees, although post-government employment restrictions are not covered annually.
- Some agencies offered or plan to offer training on post-government employment restrictions in 2008 in anticipation of senior officials leaving government service because of the change in the administration. For example, Treasury began its mandatory training on the post-government

¹¹Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

employment restrictions to all political appointees in 2008, and State plans to update its internal Web site.

In addition, officials at all of the agencies we met with stated that post-government employment restrictions are discussed with departing senior employees as part of the close-out procedures that occur when an employee leaves the agency. For example, departing senior employees at Treasury complete a checklist that certifies that they have reviewed the post-government employment restrictions. Finally, all of the ethics officials we met with said their agencies provide advice to current and former employees in response to specific requests. Executive agencies also are required by regulation to provide written notification to senior executives of personnel actions affecting their coverage under 18 U.S.C. § 207(c), including notification that they are subject to restrictions on representing, aiding, or advising foreign entities. The written notice must include information on the specific penalties for violating the post-employment laws, and must also indicate that these employees are subject to the restrictions on representing, aiding, or advising foreign entities found at 18 U.S.C. 207(f).¹²

Justice Collects and Maintains Information on Entities That Register as Foreign Agents, and Promotes Voluntary Compliance with FARA

Justice collects and maintains information on all entities that register with the department as foreign agents; however, this information does not identify individuals who were former senior federal employees, and Justice is not required to do so. FARA requires all persons working on behalf of a foreign principal to file a statement with Justice's Registration Unit. These statements collect information such as the individual's name, address, year of birth, nationality, name and address of the primary registrant they work for, and current occupation. Further, the statement asks registrants to list all foreign principals to which they will render services in support of the primary registrant, as well as a detailed description of services they will provide on behalf of the foreign principal. These statements do not, however, ask individuals about their previous employment status.

Justice promotes voluntary compliance with FARA primarily through its public Web site. The Web site provides an overview of FARA, an index and text of the FARA statute, a link to the FARA regulations, answers to frequently asked questions, information on fees and related statutes, a

¹²5 C.F.R. 730.104(a).

public feedback portal, and downloadable FARA public disclosure forms. Justice's Registration Unit also offers guidance and assistance to prospective registrants by issuing formal advisory opinions on whether individuals need to register and by conducting private meetings with potential registrants. In addition, Justice officials said they answer inquiries from agency ethics officers on FARA requirements and provide information on FARA registration and reporting requirements for federal employees to ethics officers from every agency. Further, Justice officials said the Registration Unit regularly provides general guidance concerning registration requirements to the Senate Foreign Relations Committee, other House and Senate committees, and various governmental agencies, including the Federal Bureau of Investigation, the Department of Homeland Security, and the Central Intelligence Agency.

Moreover, Justice officials said the Registration Unit is proactive in identifying potential registrants. In an effort to do so, Justice's Registration Unit reviews publications such as *Congressional Quarterly*; monitors the Lobbying Disclosure Web site; and acts on tips provided from various sources. Justice officials estimated that, between January 2004 and May 2008, the Registration Unit identified approximately 130 individuals or firms it believed may have an obligation to register as foreign agents under FARA; the unit subsequently sent these entities letters requesting information that would enable the unit to determine whether the entities had to register. As of May 22, 2008, the Registration Unit had received approximately 25 registrations as a result of these letters; the remaining entities were either determined not to have an obligation to register or are still being reviewed.

Few Former Senior Federal Employees Registered as Foreign Agents between 2000 and 2007

By matching FARA and OPM data, we identified 29 former senior federal officials who left U.S. government service between 2000 and 2007 and registered as foreign agents with Justice. However, this number may not include all former senior federal employees who represent foreign entities because individuals engaged in certain activities who may be exempted, including those registered under the Lobbying Disclosure Act, are not required to register with Justice. The 29 registrants we identified engaged in activities that included the promotion of trade, lobbying, policy consulting, and public relations on the behalf of foreign principals such as the governments of Argentina, China, Indonesia, Saudi Arabia, and the Kurdish Democratic Party of Iraq. For example, a former Treasury senior employee advised and assisted the government of Argentina on economic restructuring issues, and worked to develop U.S. government and international financial institution support for providing economic and

financial assistance to Argentina. In another example, a former U.S. Department of Transportation senior employee provided government relations services to the Royal Embassy of Saudi Arabia. According to the description of services on the agent's statement, the agent specifically worked to defend and advance the country's international trade interest before the U.S. government when Congress and the executive branch were enacting and executing laws, policies, and administrative decisions that could benefit or harm the country's relationship with the United States. Appendix III provides a description of the activities performed by the 29 former senior federal officials on the behalf of foreign entities.

Agencies Face Information, Legal, and Resource Challenges

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with post-government employment restrictions and in enforcing and monitoring the registration requirements of FARA. For example, while the ethics officials provide guidance and information to employees on post-government employment restrictions, they do not consistently document specific advice provide to senior federal employees. The Inspector General officials we met with said that documentation of specific advice on post-government employment restrictions provided to senior federal employees can assist the agencies to prove intent to violate the post-government employment restrictions. In addition, Justice officials have cited a lack of clear legal authority and a lack of resources as barriers to monitoring compliance with FARA registration requirements.

Information-Related Challenges

An OGE best practice described in its 2004 ethics program review guidelines¹³ is for agencies to establish a written policy defining when to keep records of advice. In addition, OGE has encouraged the executive branch agencies to document such advice. For example, a November 17, 2005, OGE memorandum to all designated agency ethics officials discussed the advantages of documenting advice and offered suggestions on when to document ethics advice. For example, it stated that the more

¹³OGE conducts periodic reviews of selected agencies' ethics programs to assess agency compliance with the minimal ethics requirements found in the various statutes, regulations, and policies and to measures the effectiveness of the program in terms of the systems, processes, procedures, and other practices that an agency has established, beyond the minimal requirements, to prevent ethics violations from occurring. Accordingly, OGE includes "best practices" with its compliance review steps. Depending on the circumstances, OGE might suggest certain best practices in the narrative of a report.

senior the official, the more important it is to create written documentation. Several of the officials we met with discussed the importance of documenting advice. For example, to prevent conflict of interest violations between federal employees discussing future employment with one of its contractors, USAID entered into a written agreement with the contractor that requires the contractor to first obtain a written ethics opinion from an agency ethics official. In addition, some defense contractors require former senior Department of Defense (DOD) employees to provide ethics advice letters from their ethics officials to determine if their employment with a specific contractor is permitted under the post-government employment restrictions. Moreover, under a provision of the National Defense Authorization Act for Fiscal Year 2008, defense contractors may not knowingly compensate former DOD officials who are subject to post-government employment restrictions without first determining that the official has sought and received a written ethics advice opinion from DOD within 30 days of seeking the opinion. DOD has to retain each request and written opinion provided in a central database for 5 years.¹⁴

The agencies document information such as ethics training courses given, subject matters covered, and counseling services offered to employees. However, despite the 2005 memorandum from OGE, we found that the agencies we reviewed did not consistently document specific advice given to specific employees regarding post-government employment restrictions. In response to complaints from federal employees that ethics officers were not providing written ethics advice, OGE sent an e-mail to over 2,500 ethics officials in 2008 reemphasizing to them the importance of responding to requests for written ethics advice and referring them to the 2005 memorandum for additional guidance. State, Treasury, and USAID Inspector General officials and an official of Justice's Criminal Division told us that the lack of consistent documentation of specific advice given to departing and former senior federal employees on post-government employment restrictions presents a challenge to enforcing post-government employment restrictions and FARA. OGE officials also stated they receive comments from agency Inspectors General expressing concern about the lack of consistent documentation of ethics advice. The Inspector General officials we met with said documentation of specific advice on post-government employment restrictions provided to senior

¹⁴National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181 §847, (Jan. 28, 2008).

federal employees can assist the agencies to prove intent to violate the post-government employment restrictions; however, this advice is not consistently documented. Certain civil and criminal penalties available under the post-government employment laws require that the violation of the law be knowing or willful, as opposed to a lesser standard such as negligence. Proving intent is one of the most significant barriers to prosecuting cases, according to an official of Justice's Criminal Division. Inspector General officials at one of the agencies we reviewed described a situation in which a former employee engaged in activities that he was specifically told were prohibited. The government had detailed documentation of the advice provided to this individual, and it used the documentation to demonstrate willful intent to violate the law and successfully prosecute the violation.

Legal and Resource Challenges

Justice officials cite a lack of clear legal authority and a lack of resources as barriers to increased monitoring of FARA compliance. First, the law does not provide Justice with specific authority to inspect the records of persons that it believes should be registered and to require advance written exemption notifications. In July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General. In 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. Without such authority, Justice states that it cannot inspect the records of persons it suspects should be registered as agents of foreign principals or collect information to help Justice better identify persons who should be registered as foreign agents.

Second, Justice cited resources limitations as a barrier to monitoring FARA compliance, including any new requirements, such as reviewing exemption notifications. Specifically, the number of staff resources in Justice's FARA Registration Unit has significantly declined over the last 17 years from 13 (9 professional and 4 administrative) in 1990 to 8 (6 professional and 2 administrative) in 2008. Nonetheless, this unit remains responsible for (1) identifying unregistered agents, (2) ensuring that agents file reports on time, (3) rendering advisory opinions interpreting the Act, (4) reviewing reports to ensure proper form and completeness, (5) requesting report corrections when errors are found while processing registration forms, and (6) conducting inspections of registrants' records. According to the Chief of the FARA Registration Unit, requiring advance written notification of exemptions would shift the focus of the unit's

limited resources from those who are required to register to those who are not.

Conclusions

While collecting and maintaining information on the post-government employment activities of former senior federal employees is not required, several agency officials have acknowledged that having certain information could enhance the enforcement of post-government employment restrictions. Establishing a written policy defining when to keep records of advice is an OGE best practice, and OGE has made efforts to emphasize to agencies the importance of documenting ethics advice. Documentation of specific advice on post-government employment restrictions provided to senior federal employees can help the agencies to prove the intent element needed to prosecute violations of the post-government employment restrictions. Additionally, such information could be useful to senior officials leaving federal government who seek employment during the transition of administrations, such as the upcoming 2009 change in administration. We have previously recommended that Justice require advance written notification of certain FARA exemptions before agents can begin to engage in the exempted activity. We continue to believe that such a requirement could improve program administration. For example, through other methods, such as monitoring news articles to identify and scrutinize potential registrants, Justice has identified persons engaging in nonexempt activities on behalf of foreign principals. However, Justice officials said the department does not have clear legal authority to inspect the records of persons that it believes should be registered or to require advance written notification by persons engaging in exempt activities. Without advance written notification, Justice has no way of knowing whether persons exempting themselves should in fact be registered.

Matter for Congressional Consideration

To enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities, Congress may wish to consider (1) granting the Department of Justice civil investigative demand authority to inspect records of persons Justice believes should be registered as foreign agents and (2) requiring persons claiming certain exemptions to provide advance written notification to Justice before engaging in the exempt activities.

Recommendations for Executive Action

To enhance executive branch enforcement of the post-government employment restrictions, we recommend that the Director of the Office of Government Ethics strongly encourage agency ethics officials to implement the suggested actions described in the November 2005 OGE memorandum and its subsequent 2008 reminder to designated agency officials on documenting ethics advice, and also encourage agency ethics officials to work closely with their Inspectors General to ensure that this information is shared when needed.

Agency Comments and Our Evaluation

OGE and Justice provided written comments on a draft of this report, which are reproduced in appendixes IV and V, respectively. OGE and Justice generally agreed with our findings, conclusions, and recommendations. OGE stated that it had made several efforts recently to impress upon agencies' ethics officials the importance of documenting ethics advice when practicable. Justice said that the GAO report is useful; however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. Justice provided no information on how expanded authority might compromise FARA enforcement efforts. Also, Justice said that it would look forward to working with Congress if it chooses to move forward with legislation. Our report notes that in a July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General to achieve greater compliance with registration requirements. In addition, in 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. We maintain that Congress consider the proposed legislative changes to enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy. Justice, State, Treasury, USAID, and USTR also reviewed a draft of this report for technical accuracy. OGE, Justice, State, and Treasury provided technical comments, which we incorporated into the report as appropriate.

We are sending this report to other interested Members of Congress and to the Secretaries of State and the Treasury, the Attorney General, the Directors of the Office of Government Ethics and the U.S. Agency for International Development, and the U.S. Trade Representative. We will also make copies available to others upon request. In addition, the report will be available at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4128 or fordj@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made contributions to this report are listed in appendix VI.

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J" and a distinct "T" and "F".

Jess T. Ford
Director, International Affairs and Trade

Appendix I: Scope and Methodology

To determine the extent to which the U.S. government collects and maintains information on the post-government employment activities of former senior federal employees who represent foreign entities, we analyzed Office of Government Ethics (OGE) guidance and other documents on post-government employment restrictions. We analyzed Justice Department (Justice) rules, regulations, and procedures for administering, monitoring, and enforcing the Foreign Agents Registration Act (FARA) and interviewed officials in Justice's Registration Unit. We also interviewed officials at OGE, the Departments of State (State) and the Treasury (Treasury), the U.S. Agency for International Development (USAID), and the Office of United States Trade Representative (USTR) and examined documents at those agencies to understand how the agencies notify employees of post-government employment restrictions. We analyzed documents related to violations of the post-government employment restrictions and interviewed Office of Inspector General officials at State, Treasury, and USAID to determine how the agencies enforce the restrictions. We initially included State, Treasury, USAID, and USTR in our scope because these agencies work on issues directly related to country bilateral relations and were thus likely to have former senior employees registered as foreign agents. We subsequently analyzed employment information on the 29 foreign agents that we identified who were former senior federal employees to determine if any additional executive branch agencies had large numbers of former employees registered as foreign agents. Most of the agencies had 1 or 2 such individuals. Therefore, we did not include any additional agencies in our review.

To identify the number of senior-level federal officials who registered as foreign agents after leaving government service between calendar years 2000 and 2007, we obtained a list from Justice, which contained 4,113 names, of all individuals registered as foreign agents during those years. We provided these names to the Office of Personnel Management (OPM) to match against all executive branch senior federal employees in its Central Personnel Data File (CPDF). As computerized name matching can be difficult because of inconsistent use or spelling of titles, first names, middle names and initials, hyphenated names, and suffixes between different data sets, we asked OPM to make their initial match as broad as possible, so that we could manually check a broad range of potential or near matches. OPM provided us with a list of 183 individuals (of the nearly 8,000 senior employees who left government service between 2000 and 2007) containing both exact and near matches. In addition, we received descriptive information on each of the 183 individuals, including date of birth, year of departure from federal service, and former federal agency.

We manually reviewed the 183 names and eliminated 139 of them that clearly were not matches, for example, ones where the last name was spelt differently, or the first name was completely different. This procedure narrowed the list to 44 individuals. Finally, we obtained the registration statements for all 44 individuals from the FARA Registration Unit and matched birth dates. From this process, we identified 29 former senior federal officials that registered as foreign agents between calendar years 2000 and 2007. In addition, we compared the dates the former senior level officials had registered with FARA against the dates on which they had officially separated from the federal government, and identified those officials whose registrations occurred less than 1 year after their separations. The scope of our review did not include assessing compliance with the post-government employment restrictions by any of the former 29 former senior federal level employees who registered as foreign agents.

We defined former senior federal officials as (1) federal employees paid on the Executive Schedule and (2) federal employees whose pay was 86.5 percent of level II of the Executive Schedule.

To identify the key challenges the U.S. government faces in enforcing post-government employment restrictions and FARA requirements, we reviewed past GAO reports and analyzed past legislation and other documents on the issue. We also interviewed OGE, State, Treasury, USAID, and USTR ethics officials; State, Treasury, and USAID Inspector General officials; and officials of Justice's FARA Registration Unit and its Criminal Division to obtain their views on the challenges. We conducted our work from September 2007 to June 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: FARA Exemptions

FARA exemption category	Definition
Diplomatic or consular offices	A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities that are recognized by the Department of State as being within the scope of the functions of such officer
Officials of foreign governments	Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities that are recognized by the Department of State as being within the scope of the functions of such official
Staff members of diplomatic or consular offices	Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities that are recognized by the Department of State as being within the scope of the functions of such member or employee
Private and nonpolitical activities; solicitation of funds	Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of subchapter II of chapter 9 of this title, and such rules and regulations as may be prescribed thereunder
Religious, scholastic, or scientific pursuits	Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts
Defense of foreign government vital to the defense of the United States	Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while (1) such person or employee engages only in activities that are in furtherance of the policies, public interest, or national defense both of such government and of the government of the United States and are not intended to conflict with any of the domestic or foreign policies of the government of the United States; (2) each communication or expression by such person or employee that he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities, and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein; and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee

Appendix II: FARA Exemptions

FARA exemption category	Definition
Persons qualified to practice law	Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the government of the United States: provided, that for the purposes of this subsection, legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record
Agents of foreign principals	Any agent of a person described in section 611(b)(2) of this title or an entity described in section 611(b)(3) of this title if the agent has engaged in lobbying activities and has registered under the Lobbying Disclosure Act of 1995 [2 U.S.C.A. § 1601 et seq.] in connection with the agent's representation of such person or entity

Source: 22 U. S. C. §611, et seq.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
1	Department of State	Republic of China (Taiwan); government of India; state of Qatar; Kurdish Democratic Party-Iraq	U.S. policy consultant; legal and other services/lobbying	Engaged in political activities, as well as monitoring and advising foreign principals on U.S. policy-making process with regard to the Republic of China, government of India, state of Qatar and the Kurdish Democratic Party of Iraq. Arranged meetings between officials from the foreign principals and U.S. officials.
2	Federal Aviation Administration	Republic of Korea	Legal and other services/lobbying	Assisted in presenting information and educational materials to U.S. government policy-makers in order to maintain and strengthen U.S.-Republic of Korea bilateral relations.
3	Department of Energy	Kurdish regional government	Not yet reported	Engaged in political activities relating to monitoring and advising on U.S. policy-making process with regard to Kurdistan, and arranging meetings between Kurdish and U.S. officials.
4	Department of Veteran Affairs	King Abdullah University of Science & Technology in Saudi Arabia	Public relations	Provided general media relations to promote university to a worldwide audience.
5	Department of State	Embassy of the government of India	Lobbying	Promoted dialogue between the United States and India on key issues of democracy and peace.
6	Department of Treasury	Government of Argentina	Legal and other services/lobbying	Advised and assisted the government of Argentina on economic restructuring issues and worked to develop U.S. government and international financial institution support for providing economic and financial assistance to Argentina.
7	Department of Commerce	Government of Haiti	Public relations	Provided advice and assistance in connection with maintaining and strengthening Haiti's relations with the U.S. government.
8	Department of State	Republic of India	Legal and other services/lobbying	Advised the embassy of India on U.S. government policies and communicated with U.S. government officials regarding U.S. policy toward India.
9	Department of State	Taiwan Studies Institute	Public relations	Worked with the Taiwan Studies Institute on advancing an appreciation of Taiwan's history, cultural uniqueness, democratic political development and its socioeconomic position in the world.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
10	Department of Transportation	Hong Kong Trade Development Council	Legal and other services/lobbying	Worked to improve the climate of opinion towards Hong Kong's specific international trade and other interests when Congress and the executive branch were planning, drafting, enacting and executing laws, policies and administrative decisions that could benefit or harm Hong Kong's trade relations with the United States.
		Royal Embassy of Saudi Arabia	Legal and other services/lobbying	Provided government relations services to the Royal Embassy of Saudi Arabia. The purpose of the government service was to defend and advance the Royal Embassy of Saudi Arabia's international trade and other interests before the government of the United States, including both Congress and the executive branch. Additionally, the registrant worked to improve the climate of opinion towards the Royal Embassy of Saudi Arabia's specific international trade and other interests when Congress and the executive branch were planning, drafting, enacting and executing laws, policies, and administrative decisions that could benefit or harm the Royal Embassy of Saudi Arabia's trade relations with the United States.
11	Department of State	Government of the Kingdom of Morocco	Public relations/consultant	Provided, on an informal basis, advice to the foreign principal regarding U.S. - Moroccan relations and Morocco's business and cultural interests in the United States.
12	Department of State	Province of Manitoba; Province of Quebec; Province of New Brunswick; Province of Ontario	Lobbying	Engaged in government relations activities with U.S. Congress and executive branch agencies on the Western Hemisphere Travel Initiative.
13	Department of Defense	Giat Industries	Lobbying	Provided lobbying, consulting and business development services in support of Giat products.
14	Department of Energy	Government of Senegal	Lobbying	Encouraged U.S. government officials to increase their direct and indirect support of development assistance to a key ally in the war on terrorism, the Republic of Senegal.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
15	Department of State	Government of Tanzania; government of Kaduna State, Nigeria	Lobbying; promotion of trade	Assisted the President and other senior decision-makers of Tanzania, and the Governor of Kaduna and his staff, during their visits to the United States by introducing them to appropriately senior U.S. officials at the federal, state, or local levels to discuss U.S. trade with, and investment in, their countries.
16	Department of State	None listed	Not yet reported	Advised clients and provided government relations and strategic communications services including, contacting public officials and representatives of the media, the executive branch of the federal government, and other organizations on behalf of foreign principals.
17	Department of State	Republic of the Philippines	Not yet reported	Assisted in the representation of the Philippines government in enhancing its relations with the U.S. government and the U.S. private sector.
18	U.S.-China Economic & Security Commission	Denis Sassou-Nguesso	Legal and other services/lobbying	Provided advice concerning allegations of misconduct directed at President Sassou-Nguesso by creditors of the Republic of Congo. Provided advocacy concerning the activities of the creditors of the Republic of Congo and issues of debt relief for the Republic of Congo before international organizations and departments of the U.S. government.
19	Federal Maritime Commission	Bank of the Netherlands Antilles	Not yet reported	Provided assistance to the Livingston Group in the representation of the Bank of the Netherlands Antilles before the U.S. Congress and executive branch agencies.
20	Department of Transportation	Republic of Cyprus	Lobbying	Provided U.S. government relations representation to the Republic of Cyprus, particularly in relation to the Annan Plan for the "Comprehensive Settlement of Cyprus Problem" and the future political status of Cyprus following the referendum on the Annan Plan.
21	Department of State	Bayelsa state government (Nigeria)	Lobbying	Represented Bayelsa State in the U.S. with the executive branch of the U.S. government and the U.S. Congress. The goal of this representation is to gain support for Bayelsa and the Niger Delta from the U.S. government.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
22	Department of State	The Menachem Begin Heritage Foundation	Lobbying	Arranged for and accompanied representatives of the Begin Center to meetings with U.S. officials, Members of Congress, and their staffs; provided briefings; and served in a general capacity as a liaison between the Begin Center and the U.S. government.
		State intelligence Agency of the Republic of Indonesia	Not reported	Provided advice, expertise, and assistance to aid the State Intelligence Agency of the Republic of Indonesia. Assisted in initiating a campaign of outreach and information dissemination about Indonesia's political, economic, and social development. Focused outreach efforts on the U.S. Congress and identified congressional member concerns relating to Indonesia to develop tactics to approach and engage selected Members and their staffs.
		Ministry of Foreign Affairs (government of Nicaragua); Ministry of Development, Industry, and Commerce (government of Nicaragua)	Promotion of trade; legal and other services/lobbying	Worked on behalf of the Nicaraguan government to expand support in the U.S. Congress for the Dominican-Central American Free Trade Agreement in 2005. Specific activities included, researching existing congressional support and opposition to the trade agreement, advising the ministry on how best to approach meetings with executive and legislative branch officials, and coordinating meetings for the Nicaraguan ambassador, and other Nicaraguan government officials.
23	Department of State	Emin Abufele	U.S. policy consultant	Provided advice with regard to immigration application, granting of visa application for the client, and facilitating admission into the United States.
		Moroccan American Center for Policy	Public relations	Provided advice on U.S.-Moroccan relations as well as contacted U.S. government officials and participated in Moroccan delegation visits to the United States.
		Ernesto Perez Balladrares Gonzalez Revilla	Not reported	Provided federal government affairs assistance and strategic counsel with regard to immigration matters, specifically in seeking approval of a nonimmigrant visa application for the client and facilitating admission into the United States.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
24	Department of State	Equatorial Guinea	Not reported	Kept the government of Equatorial Guinea apprised of U.S. programs that could help the government in areas such as defense, malaria eradication, trafficking in persons, democratic reform, human rights, environmental and wildlife protections, and police training. Assisted Guinean government in developing and maintaining a Web site and advised them on other matters related to communication so that U.S. audiences—government and the general population—could gain a better understanding of the country, decision-making policies, and programs.
	Department of State	Embassy of the Islamic Republic of Pakistan	Not reported	Performed a comprehensive assessment of the embassy’s needs and capabilities and provided a series of recommended actions to address various high-priority issues. Provided an analysis of options that the embassy could pursue to effectively deliver messages regarding the role Pakistan plays as an important strategic partner of the United States. Promoted the enhancement of the Embassy’s dialogue with U.S. leaders and government officials in order to promote a better understanding of the country’s recent political, social, and economic developments, clarifying Pakistan’s role as a key partner for the United States in efforts to enhance security and stability in a region of broad strategic importance. Devised and implemented a comprehensive strategy to communicate and promote a more accurate and balanced message regarding common U.S.-Pakistan interests.
25	Department of State	Republic of Guatemala	Legal and other services/lobbying	Advised the government of Guatemala on effective measures to fight corruption, drug trafficking, and related criminal activities. The advisory work involved meeting with U.S. embassy officials in Guatemala, State Department officials, and as appropriate other members of the administration and U.S. Congress, to discuss the government of Guatemala’s counter narcotics and anticorruption programs.

Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
26	Department of Transportation	Corporate Fund, Kazakhstan	Media relations	Assisted Kazakhstan in its relations with the U.S. government. Advised the foreign principal on its relationship with the U.S. government, including preparation of legal, policy, economic and other materials for presentation before the executive branch and the Congress, and attendance at meetings with U.S. government and congressional officials.
	Department of Transportation	Ministry of Finance (government of Bermuda)	Not reported	Advised the Ministry of Finance on U.S. government policy, legislative, tax, and regulatory issues.
27	Department of State	Government of Greece	U.S. policy consultant	Advised and counseled on public policy issues. Monitoring and information gathering related to bilateral issues. House and Senate advocacy, including Member and Senator meetings. Executive branch monitoring, liaison, and advocacy.
28	Department of Army	State government of Sonora, Mexico	U.S. policy consultant	Worked with members of the Sonora state government to develop and implement a plan to improve exchange of information and coordination between the State of Sonora and U.S. government agencies in an effort to eliminate organized criminal activities and terrorists along the border. This assistance included arranging meetings with key members of the U.S. government; assisted in preparation and plans; prepared briefings and documents; and attended meetings between Sonora government officials and U.S. officials.
29	Department of State	Colombia (Embassy of)	Lobbying	Educated members of the U.S. Congress and other audiences regarding the Free Trade Agreement and Plan Colombia.

Source: GAO analysis of FARA data.

Appendix IV: Comments from the Office of Government Ethics



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 21, 2008

Jess Ford
Director
International Affairs and Trade
Government Accountability Office
441 G Street, NW., Room 4440C
Washington, DC 20548

Dear Mr. Ford:

Thank you for the opportunity to review and comment on the draft Government Accountability Office (GAO) report, "Post-Government Employment Restrictions and Foreign Agents Registration."

As the draft report points out, the United States Office of Government Ethics (OGE) has made several efforts recently to impress upon agency ethics officials the importance of documenting ethics advice where practicable. See, e.g., OGE List Serve Message to Agency Ethics Contacts No. 279 (January 17, 2008); OGE Memorandum DO-05-019 (November 17, 2005). OGE, therefore, agrees with GAO's recommendation to provide strong encouragement to agency ethics officials to implement the actions suggested in prior OGE issuances on this subject. OGE also agrees with the related recommendation to encourage agency ethics officials to work closely with their Inspectors General to share information about ethics advice as needed.

If you have any questions concerning these comments, please contact Richard Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick
Director

OGE - 106
August 1992

Appendix V: Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice

National Security Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 16, 2008

Jess T. Ford
Director, International Affairs and Trade
U. S. Governmental Accountability Office
441 G Street, NW, Room 4938
Washington, DC 20548

Re: Response to Draft GAO Report, GAO-08-855

Dear Mr. Ford:

I am responding to your July 1, 2008, request to Mr. Lee Lofthus that the Department of Justice review and comment on the draft report "Post-Government Employment Restrictions and Foreign Agents Registration: Additional Action Needed to Enhance Implementation of Requirements" (GAO-08-855).

The Department found the report useful. The Foreign Agents Registration Act (FARA) was enacted to ensure that both the American people and the Government are aware of persons who are acting within this country as agents of foreign principals. To that end, FARA requires that persons acting as agents of foreign principals (within the meaning of the statute) make periodic public disclosure of their agency relationship, their activities, and their receipts and disbursements in support of their activities. Thus, FARA is a disclosure statute; it does not prohibit or regulate any activity.

The draft report suggests that Congress consider adding a requirement to FARA that all those who believe themselves exempt from registration under the Act must provide advance written notification to the Attorney General before engaging in the exempt activities. Implementation of this suggestion could create an additional category of registrants from among those whom Congress has previously chosen to exempt from registration.

We cannot say at this time that GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or, indeed, the extent to which they actually might compromise FARA enforcement efforts. The Department would look forward to working with

See comment 1.

**Appendix V: Comments from the Department
of Justice**

-2-

Congress if it chooses to move forward with legislation. We appreciate the opportunity to review the report in draft and supply these comments. We understand that the foregoing comments will be reflected in the final report.

If you want more information, contact Richard Theis, Audit Liaison Group, Justice Management Division, at (202) 514-0469.

Sincerely,



Charles M. Steele
Chief of Staff

The following is GAO's comment on DOJ's letter dated July 16, 2008.

GAO Comment

Justice said that the GAO report is useful, however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. Justice provided no information on how expanded authority might compromise FARA enforcement efforts. Also, Justice said that it would look forward to working with Congress if it chooses to move forward with legislation. Our report notes that in a July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General to achieve greater compliance with registration requirements. In addition, in 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. We maintain that Congress consider the proposed legislative changes to enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy.

Appendix VI: GAO Contact and Staff Acknowledgements

GAO Contact

Jess Ford(202) 512-4128 or fordj@gao.gov.

Staff Acknowledgments

In addition to the individual named above, Zina Merritt (Assistant Director); Ashley Alley, Joseph Carney, Martin de Alteriis, Cardell Johnson, La Verne Tharpes, and Greg Wilmoth made key contributions to this report.

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