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INTELLIGENCE REFORM

GAO Can Assist the Congress and the Intelligence Community on Management Reform Initiatives

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Highlights of [GAO-08-413T](#), a testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

For decades, GAO has assisted Congress in its oversight role and helped federal departments and agencies with disparate missions to improve the economy, efficiency, and effectiveness of their operations. GAO's work provides important insight on matters such as best practices to be shared and benchmarked and how government and nongovernmental partners can become better aligned to achieve important outcomes for the nation. In addition, GAO provides Congress with foresight by highlighting the long-term implications of today's decisions and identifying key trends and emerging challenges facing our nation before they reach crisis proportions.

For this hearing, GAO was asked to (1) highlight governmentwide issues where it has made a major contribution to oversight and could assist the intelligence and other congressional committees in their oversight of the Intelligence Community, and (2) comment on the potential impact on GAO's access to perform audit work on personnel security clearances if the Office of the Director of National Intelligence (ODNI) were to assume management of this issue from the Office of Management and Budget (OMB). Given historical challenges to GAO's ability to audit the Intelligence Community's programs and activities, this testimony also discusses GAO's views on Senate bill S. 82, known as the Intelligence Community Audit Act of 2007.

To view the full product, click on [GAO-08-413T](#). For more information, contact Davi M. D'Agostino, 202-512-5431 or dagostinod@gao.gov.

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What GAO Found

GAO has considerable experience in addressing governmentwide management challenges, including such areas as human capital, acquisition, information technology, strategic planning, organizational alignment, and financial and knowledge management, and has identified many opportunities to improve agencies' economy, efficiency, and effectiveness, and the need for interagency collaboration in addressing 21st century challenges. For example, over the years, GAO has addressed human capital issues, such as acquiring, developing, and retaining talent; strategic workforce planning; building results-oriented cultures; pay for performance; contractors in the workforce; and personnel security clearances, which affect all federal agencies, including the Intelligence Community. Furthermore, GAO identified delays and other impediments in the Department of Defense's (DOD) personnel security clearance program, which also maintains clearances for intelligence agencies within DOD. GAO designated human capital transformation and personnel security clearances as high-risk areas. GAO also recently issued reports addressing Intelligence Community-related management issues, including intelligence, surveillance, and reconnaissance; space acquisitions; and the space acquisition workforce.

If ODNI were to assume management responsibilities over security clearances across the federal government, GAO's ability to continue monitoring this area and provide Congress information for its oversight role could be adversely affected. In 2006, OMB's Deputy Director for Management suggested that OMB's oversight role of the governmentwide security clearance process might be transferred to the ODNI. GAO has established and maintained a relatively positive working relationship with the ODNI, but limitations on GAO's ability to perform meaningful audit and evaluation work persist. While GAO has the legal authority to audit the personnel security clearance area, if the ODNI were to assume management responsibilities over this issue, then it may be prudent to incorporate some legislative provision to reinforce GAO's access to information needed to conduct such audits and reviews.

GAO supports S. 82 and believes that if it is enacted, the agency would be well-positioned to assist Congress in oversight of Intelligence Community management reforms. S. 82 would reaffirm GAO's existing statutory authority to audit and evaluate financial transactions, programs, and activities of elements of the Intelligence Community, and to access records necessary for such audits and evaluations. GAO has clear audit and access authority with respect to elements of the Intelligence Community, subject to a few limited exceptions. However, for many years, the executive branch has not provided GAO the level of cooperation needed to conduct meaningful reviews of elements of the Intelligence Community. This issue has taken on new prominence and is of greater concern in the post-9/11 context, especially since the ODNI's responsibilities extend well beyond traditional intelligence activities. The reaffirmation provisions in the bill should help to ensure that GAO's audit and access authorities are not misconstrued in the future.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here before you today to address how GAO could assist Congress and the Intelligence Community.¹ You asked that I discuss how GAO's expertise and capacity to perform program reviews of key governmentwide issues, as well as some recent work we have done related to intelligence activities, could be useful in assisting congressional oversight of Intelligence Community management reforms under consideration. Second, as requested, I will comment on the potential impact on GAO's ability to perform audit work on personnel security clearances if the Office of the Director of National Intelligence (ODNI) were to assume management of this issue from the Office of Management and Budget (OMB). Finally, given historical challenges to GAO's ability to audit the Intelligence Community's programs and activities, I would like to discuss GAO's views on Senate bill S. 82, known as the Intelligence Community Audit Act of 2007.² My comments today are based primarily on GAO's completed work and on our institutional knowledge, drawn from our prior reviews at the Department of Defense (DOD) and other federal agencies of human capital management, personnel security clearances, and other areas that directly affect the Intelligence Community, as well as on publicly available reports. (See the list of related GAO products at the end of this statement.)

¹ An Intelligence Community member is a federal government agency, service, bureau, or other organization within the executive branch that plays a role in national intelligence. The Intelligence Community consists of the Office of the Director of National Intelligence and 16 different agencies or components: Central Intelligence Agency; Defense Intelligence Agency; Departments of the Army, the Navy, and the Air Force; U.S. Marine Corps; National Geospatial-Intelligence Agency; National Reconnaissance Office; National Security Agency; Department of Energy; Department of Homeland Security; U.S. Coast Guard; Drug Enforcement Administration; Federal Bureau of Investigation; Department of State's Bureau of Intelligence and Research; and Department of the Treasury. The following members of the Intelligence Community are organizationally aligned within the Department of Defense: Defense Intelligence Agency; Departments of the Army, the Navy, and the Air Force; U.S. Marine Corps; National Geospatial-Intelligence Agency; National Reconnaissance Office; and National Security Agency. Additionally, the U.S. Coast Guard is organizationally aligned with the Department of Homeland Security and the Drug Enforcement Administration and the Federal Bureau of Investigation are organizationally aligned with the Department of Justice.

² S. 82, *Intelligence Community Audit Act of 2007*, was introduced on January 4, 2007.

Summary

First, GAO has assisted Congress for decades in its oversight role and helped federal departments and agencies with disparate missions to improve the economy, efficiency, and effectiveness of their operations. In addition, GAO's work also provides important insight and foresight to complement the work we have performed for Congress for many years. A number of the governmentwide management challenges we have addressed, such as human capital transformation, acquisition, information technology, strategic planning, organizational alignment, financial and knowledge management, and personnel security clearances, affect most federal agencies, including those within the Intelligence Community. Moreover, we have designated some of these areas as high-risk for the federal government.³ Human capital transformation and personnel security clearances also have been repeatedly identified as areas of weakness within the Intelligence Community by others, including the Subcommittee on Oversight, House Permanent Select Committee on Intelligence; the Congressional Research Service; and independent commissions.⁴ Specifically, strategic human capital transformation and related management reforms; DOD's new pay-for-performance system, known as the National Security Personnel System (NSPS); contractors in the workforce; and personnel security clearances are among the serious challenges going forward. We also have recently completed work on several management issues that are directly related to the Intelligence Community, and we have the capabilities to further support the intelligence and other appropriate congressional committees with their oversight needs. Specifically, we have performed in-depth reviews and issued reports on intelligence, surveillance, and reconnaissance (ISR) systems requirements, operations, and acquisitions; on space acquisitions; and on the space acquisition workforce—issues that are current and

³ GAO, *High-Risk Series: An Update*, [GAO-07-310](#) (Washington, D.C.: January 2007). Agencies within the Intelligence Community also are vulnerable to other high-risk areas, such as contract management, management of interagency contracting, protecting the federal government's information systems and the nation's critical infrastructures, and ensuring the effective protection of technologies critical to U.S. national security interests.

⁴ See U.S. Congress, Subcommittee on Oversight, House Permanent Select Committee on Intelligence, *Initial Assessment on the Implementation of The Intelligence Reform and Terrorism Prevention Act of 2004* (Washington, D.C.: July 27, 2006); Congressional Research Service, *Intelligence Issues for Congress*, RL33539 (Washington, D.C.: Updated Dec. 18, 2007); National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (Washington, D.C.: July 22, 2004); and The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, *Report to the President of the United States* (Washington, D.C.: Mar. 31, 2005).

critical within the Intelligence Community.⁵ For the most part, DOD has agreed with our findings and recommendations. In addition, GAO's highly qualified and experienced staff—including its analysts, auditors, lawyers, and methodologists—and secure facilities position us to perform intensive reviews to assess the transformation and related management reforms under consideration within the Intelligence Community, especially in connection with human capital and acquisition and contracting-related issues.

Second, if the ODNI assumes management of governmentwide personnel security clearances, then GAO's ability to continue to review personnel security clearances could be impaired unless greater cooperation is forthcoming from the Intelligence Community. Although we have established and maintained a relatively positive working relationship with the ODNI, limitations on our ability to perform meaningful audit and evaluation work persist. The ODNI might assume management responsibilities for the security clearance process in the event that either of two potential changes were to occur. First, in 2006, OMB's Deputy Director for Management suggested that the agency's oversight role of the governmentwide security clearance process might be transferred to the ODNI. Alternatively, the ODNI could assume leadership, to some extent, over implementation of a new security clearance process. A team established by the Director of National Intelligence, the Under Secretary of Defense for Intelligence, and OMB's Deputy Director for Management is developing a proposed security clearance process that could be implemented governmentwide. If ODNI were to assume leadership or oversight responsibilities for governmentwide personnel security clearances, then it might be prudent to incorporate some legislative provision to reinforce GAO's access to the information needed to conduct audits and reviews in the personnel security clearance area.

⁵ GAO, *Space Based Infrared System High Program and its Alternative*, [GAO-07-1088](#) (Washington, D.C.: Sep. 12, 2007); *DOD is Making Progress in Adopting Best Practices for the Transformational Satellite Communications System and Space Radar but Still Faces Challenges*, [GAO-07-1029R](#) (Washington, D.C.: Aug. 2, 2007); *Unmanned Aircraft Systems: Advance Coordination and Increased Visibility Needed to Optimize Capabilities*, [GAO-07-836](#) (Washington, D.C.: July 11, 2007); *Defense Acquisitions: Greater Synergies Possible for DOD's Intelligence, Surveillance, and Reconnaissance Systems*, [GAO-07-578](#) (Washington, D.C.: May 17, 2007); *Intelligence, Surveillance, and Reconnaissance: Preliminary Observations on DOD's Approach to Managing Requirements for New Systems, Existing Assets, and Systems Development*, [GAO-07-596T](#) (Washington, D.C.: Apr. 19, 2007); and *Defense Space Activities: Management Actions Are Needed to Better Identify, Track, and Train Air Force Space Personnel*, [GAO-06-908](#) (Washington, D.C.: Sept. 21, 2006).

Third, with the support of Congress and S. 82, GAO would be well-positioned to provide the intelligence and other appropriate congressional committees with an independent, fact-based evaluation of Intelligence Community management reform initiatives. S. 82, if enacted, would amend title 31 of the United States Code to reaffirm GAO's authority to audit and evaluate financial transactions, programs, and activities of the Intelligence Community. The bill also would provide that GAO may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon the request of the intelligence committees or congressional majority or minority leaders. It also would provide that GAO perform such work and use agency documents in space provided by the audited agencies. We support this bill and believe that if it is enacted, GAO would be well-positioned to assist Congress with its oversight functions relating to the Intelligence Community. The reaffirmation provisions in the bill should also help to ensure that GAO's audit and access authorities are not misconstrued in the future.

Background

GAO's Authority to Review Intelligence Community Programs

Generally, we have broad authority to evaluate agency programs and investigate matters related to the receipt, disbursement, and use of public money.⁶ To carry out our audit responsibilities, we have a statutory right of access to agency records. Specifically, federal agencies are required to provide us information about their duties, powers, activities, organization, and financial transactions.⁷ In concert with our statutory audit and evaluation authority, this provision gives GAO a broad right of access to agency records, including records of the Intelligence Community, subject to a few limited exceptions. GAO's access statute authorizes enforcement of GAO's access rights through a series of steps specified in the statute, including the filing of a civil action to compel production of records in federal district court. However, GAO may not bring an action to enforce its statutory right of access to a record relating to activities that the President designates as foreign intelligence or counterintelligence activities.⁸

⁶ 31 U.S.C. §§ 712, 717, 3523, and 3524.

⁷ 31 U.S.C. § 716.

⁸ 31 U.S.C. § 716(d)(1)(A).

GAO's statutory authorities permit us to evaluate a wide range of activities in the Intelligence Community, including the management and administrative functions that intelligence agencies, such as the Central Intelligence Agency (CIA), have in common with all federal agencies. However, since 1988, the Department of Justice (DOJ) has maintained that Congress intended the intelligence committees to be the exclusive means of oversight, effectively precluding oversight by us. In our 2001 testimony about GAO's access to information on CIA programs and activities, we noted that in 1994 the CIA Director sought to further limit our audit work of intelligence programs, including those at DOD.⁹ In 2006, the ODNI agreed with DOJ's 1988 position, stating that the review of intelligence activities is beyond GAO's purview. While we strongly disagree with DOJ and the ODNI's view,¹⁰ we foresee no major change in limits on our access without substantial support from Congress—the requestor of the vast majority of our work. Congressional impetus for change would have to include the support of the intelligence committees, which have generally not requested GAO reviews or evaluations of CIA's or other intelligence agencies' activities for many years. With support, however, we could evaluate some of the basic management functions that we now evaluate throughout other parts of the federal government, such as human capital, acquisition, information technology, strategic planning, organizational alignment, and financial and knowledge management.

Intelligence Reform and Terrorism Prevention Act of 2004

As this Subcommittee is well aware, the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) established the Director of National Intelligence to serve as the head of the Intelligence Community; act as the principal advisor to the President, the National Security Council, and the Homeland Security Council for intelligence matters related to national security; and oversee and direct the implementation of the National Intelligence Program.¹¹ Since its inception, the ODNI has undertaken a number of initiatives, including the development of both 100- and 500-day plans for integration and collaboration. One of the core

⁹ GAO, *Central Intelligence Agency: Observations on GAO Access to Information on CIA Programs and Activities*, [GAO-01-975T](#) (Washington, D.C.: July 18, 2001).

¹⁰ DOJ's position and our analysis is set forth in more detail in GAO, *Information Sharing: The Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive But Unclassified Information*, [GAO-06-385](#) (Washington, D.C.: Mar. 17, 2006).

¹¹ Pub. L. No. 108-458 § 1011 (2004) (codified at 50 U.S.C. § 403).

initiatives of these plans is to modernize the security clearance process across the Intelligence Community and at the national level, where other federal agencies, including DOD, OMB, and Office of Personnel Management (OPM) are also engaged.

Among other things, IRTPA also directed the President to select a single department, agency, or element of the executive branch to be responsible for day-to-day oversight of the government's security clearance process.¹² In June 2005, the President issued an executive order that assigned OMB responsibility for ensuring the effective implementation of a policy that directs agency functions related to determinations of personnel eligibility for access to classified information be uniform, centralized, efficient, effective, timely, and reciprocal.¹³ In its new capacity, OMB assigned the responsibility for the day-to-day supervision and monitoring of security clearance investigations, as well as for tracking the results of individual agency-performed adjudications, to OPM. With respect to (1) personnel employed or working under a contract for an element of the Intelligence Community and (2) security clearance investigations and adjudications for Sensitive Compartmented Information, OMB assigned the responsibility for supervision and monitoring of security clearance investigations and tracking adjudications to the ODNI. In May 2006, OMB's Deputy Director for Management stated during a congressional hearing that the agency's oversight role in improving the governmentwide clearance process might eventually be turned over to the ODNI.¹⁴

¹² Pub. L. No. 108-458 § 3001(b) (2004).

¹³ The White House, Executive Order 13381, *Strengthening Processes Relating to Determining Eligibility for Access to Classified National Security Information* (Washington, D.C.: June 27, 2005), as amended.

¹⁴ Senate Committee on Homeland Security and Governmental Affairs, *Progress or More Problems: Assessing the Federal Government's Security Clearance Process*, S. Hrg 109-621 (Washington, D.C.: May 17, 2006).

GAO Experience in Governmentwide Human Capital Issues and Other Management Areas Can Assist Congress and the Intelligence Community on Management Reforms

For decades, we have assisted Congress in its oversight role and helped agencies with disparate missions to improve the economy, effectiveness, and efficiency of their operations and the need for interagency collaboration in addressing 21st century challenges, and we could assist the intelligence and other appropriate congressional committees in their oversight of the Intelligence Community as well. Our work also provides important insight on matters such as best practices to be shared and benchmarked and how government and its nongovernmental partners can become better aligned to achieve important outcomes for the nation. In addition, GAO provides Congress with foresight by highlighting the long-term implications of today's decisions and identifying key trends and emerging challenges facing our nation before they reach crisis proportions. For the purpose of this hearing, I will discuss our extensive experience in addressing governmentwide human capital issues and other management issues that can assist the intelligence and other appropriate congressional committees in their oversight of Intelligence Community transformation and related management reforms.

Human Capital Transformation and Management Are Governmentwide High-Risk Issues also Affecting the Intelligence Community

GAO has identified a number of human capital transformation and management issues over the years, such as acquisition, information technology, strategic planning, organizational alignment, financial and knowledge management, and personnel security clearances, as cross-cutting, governmentwide issues that affect most federal agencies, including those within the Intelligence Community. Human capital transformation and management issues have also been repeatedly identified as areas of weakness within the Intelligence Community by other organizations, including the Subcommittee on Oversight, House Permanent Select Committee on Intelligence; the Congressional Research Service; and independent commissions, such as the 9/11 Commission and Weapons of Mass Destruction Commission.¹⁵ Moreover, the ODNI has acknowledged that Intelligence Community agencies face some of the governmentwide challenges that we have identified, including integration and collaboration within the Intelligence Community workforce and

¹⁵ GAO, *Intelligence Reform: Human Capital Considerations Critical to 9/11 Commission's Proposed Reforms*, [GAO-04-1084T](#) (Washington, D.C.: Sept. 14, 2004). Also see *Intelligence Issues For Congress*; *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*; and *Report to the President of the United States*.

Strategic Human Capital
Transformation and Related
Management Reforms across
the Government

inefficiencies and reciprocity of personnel security clearances.¹⁶ Significant issues affecting the Intelligence Community include strategic human capital transformation and reform issues, DOD's new pay-for-performance management system called NSPS, the extent to which agencies rely on, oversee, and manage their contractor workforce, and personnel security clearances. In fact, we have identified some of these programs and operations as high-risk areas due to a range of management challenges.¹⁷

GAO and others have reported that the Intelligence Community faces a wide range of human capital challenges, including those dealing with recruiting and retaining a high-quality diverse workforce, implementation of a modernized performance management system, knowledge and skill gaps, integration and collaboration, and succession planning. Our extensive work on government transformation distinctly positions us to assist the intelligence and other appropriate congressional committees to oversee the Intelligence Community's efforts to address these human capital challenges as well as to inform congressional decision making on management issues. Our work on governmentwide strategic human capital management is aimed at transforming federal agencies into results-oriented, high-performing organizations. Transformation is necessary because the federal government is facing new and more complex challenges than ever before, and agencies must re-examine what they do and how they do it in order to meet those challenges. Central to this effort are modern, effective, economical, and efficient human capital practices, policies, and procedures integrated with agencies' mission and program goals.

In 2001, we added strategic human capital management to the list of governmentwide high-risk areas because of the long-standing lack of a consistent strategic approach for marshaling, managing, and maintaining the human capital needed to maximize government performance and ensure its accountability. Although the federal government made progress in addressing these issues in the years that followed, we found that more can be done in four key areas: (1) top leadership in agencies must provide

¹⁶ ODNI, *United States Intelligence Community 100 Day Plan for Integration and Collaboration* (Washington, D.C.: Apr. 11, 2007) and Office of the Director of National Intelligence, *The US Intelligence Community's Five Year Strategic Human Capital Plan* (Washington, D.C.: June 22, 2006).

¹⁷ [GAO-07-310](#).

NSPS Is a Key Example of
GAO's Programmatic Review of
Human Capital Transformation
Challenges

the attention needed to address human capital and related organizational transformation issues; (2) agencies' human capital planning efforts need to be fully integrated with mission and program goals; (3) agencies need to enhance their efforts to acquire, develop, and retain talent; and (4) organizational cultures need to promote high performance and accountability.

Based on our experience in addressing agencies' performance management challenges, we are uniquely positioned to help Congress evaluate such issues within the Intelligence Community, including the development and implementation of its pay-for-performance personnel management system.¹⁸ As an example of our experience in this area, I would like to highlight our work on DOD's new civilian personnel management system—the NSPS—which has provided Congress with insight on DOD's proposal, design, and implementation of this system. The National Defense Authorization Act for Fiscal Year 2004¹⁹ provided DOD with authority to establish a new framework of rules, regulations, and processes to govern how the almost 700,000 defense employees are hired, compensated, promoted, and disciplined.²⁰ Congress provided these authorities in response to DOD's position that the inflexibility of the federal personnel systems was one of the most important constraints to the department's ability to attract, retain, reward, and develop a civilian workforce to meet the national security mission of the 21st century.

Prior to the enactment of the NSPS legislation in 2003, we raised a number of critical issues about the proposed system in a series of testimonies before three congressional committees.²¹ Since then, we have provided congressional committees with insight on DOD's process to design its new

¹⁸ Section 308 of H.R. 2082, the bill to authorize appropriations for fiscal year 2008 for the Intelligence Community, would require the Director of National Intelligence to submit to Congress a detailed plan for the compensation-based system of a particular element of the Intelligence Community before it is implemented.

¹⁹ Pub. L. No. 108-136, § 1101 (2003).

²⁰ The Department of Homeland Security also has received new statutory authority to help manage its workforce more strategically.

²¹ GAO, *Defense Transformation: Preliminary Observations on DOD's Proposed Civilian Personnel Reforms*, [GAO-03-717T](#) (Washington, D.C.: Apr. 29, 2003); *Defense Transformation: DOD's Proposed Civilian Personnel Systems and Governmentwide Human Capital Reform*, [GAO-03-741T](#) (Washington, D.C.: May 1, 2003); and *Human Capital: Building on DOD's Reform Efforts to Foster Governmentwide Improvements*, [GAO-03-851T](#) (Washington, D.C.: June 4, 2003).

personnel management system, the extent to which DOD's process reflects key practices for successful transformation, the need for internal controls and transparency of funding, and the most significant challenges facing DOD in implementing NSPS.²²

Most important, we have noted in testimonies and reports that DOD and other federal agencies must ensure that they have the necessary institutional infrastructure in place before implementing major human capital reform efforts, such as NSPS. This institutional infrastructure includes, at a minimum, a human capital planning process that integrates the agency's human capital policies, strategies, and programs with its program goals, mission, and desired outcomes; the capabilities to effectively develop and implement a new human capital system; and the existence of a modern, effective, and credible performance management system that includes adequate safeguards to ensure a fair, effective, nondiscriminatory, and credible implementation of the new system. While GAO strongly supports human capital reform in the federal government, how it is done, when it is done, and the basis upon which it is done can make all the difference in whether such efforts are successful.

Contractor Workforce in Government Is an Emerging Governmentwide Issue also Acknowledged as a Challenge for the Intelligence Community

An additional major issue of growing concern, both within and outside the Intelligence Community, deals with the type of work that is being performed by contractors, the need to determine the appropriate mix of government and contractor employees to meet mission needs, and the adequacy of oversight and accountability of contractors.²³ These are areas where we also are well-positioned to provide additional support to the intelligence committees. While there are benefits to using contractors to perform services for the government—such as increased flexibility in fulfilling immediate needs—GAO and others have raised concerns about

²² GAO, *Human Capital: DOD Needs Better Internal Controls and Visibility Over Costs for Implementing Its National Security Personnel System*, GAO-07-851 (Washington, D.C.: July 16, 2007) and *Human Capital: Observations on Final Regulations for DOD's National Security Personnel System*, GAO-06-227T (Washington, D.C.: Nov. 17, 2006).

²³ For example, Section 307 of H.R. 2082, the bill to authorize appropriations for fiscal year 2008 for the Intelligence Community, would require the Director of National Intelligence to submit a report to the congressional intelligence committees describing the personal services activities performed by contractors across the Intelligence Community, the impact of such contractors on the Intelligence Community workforce, plans for conversion of contractor employment into government employment, and the accountability mechanisms that govern the performance of such contractors.

the federal government's increasing reliance on contractor services.²⁴ A key concern is the risk associated with contractors providing services that closely support inherently governmental functions. Inherently governmental functions require the exercise of discretion in applying government authority and/or in making decisions for the government; as such, they should be performed by government employees, not contractors.²⁵ In 2007, I testified before the Senate Committee on Homeland Security and Governmental Affairs that the proper role of contractors in providing services to the government was the topic of some debate.²⁶ I would like to reiterate that, in general, I believe there is a need to focus greater attention on which functions and activities should be contracted out and which should not, to review and reconsider the current independence and conflict-of-interest rules relating to contractors, and to identify the factors that prompt the government to use contractors in circumstances where the proper choice might be the use of civil servants or military personnel. Similarly, it is important that the federal government maintain an accountable and capable workforce, responsible for strategic planning and management of individual programs and contracts.

In a September 2007 report, we identified a number of concerns regarding the risk associated with contractors providing services that closely support inherently governmental functions.²⁷ For example, an increasing reliance on contractors to perform services for core government activities challenges the capacity of federal officials to supervise and evaluate the performance of these activities. The Federal Acquisition Regulation (FAR) provides agencies examples of inherently governmental functions that should not be performed by contractors.²⁸ For example, the direction and control of intelligence and counter-intelligence operations are listed as

²⁴ See, for example, GAO, *Highlights of a GAO Forum: Federal Acquisition Challenges and Opportunities in the 21st Century*, [GAO-07-45SP](#) (Washington, D.C.: Oct. 6, 2006) and Acquisition Advisory Panel, *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress* (January 2007).

²⁵ OMB Circular A-76, Performance of Commercial Activities, May 29, 2003; Federal Acquisition Regulation, Subpart 7.5.

²⁶ GAO, *Federal Acquisitions and Contracting: Systemic Challenges Need Attention*, [GAO-07-1098T](#) (Washington, D.C.: July 17, 2007).

²⁷ GAO, *Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services*, [GAO-07-990](#) (Washington, D.C.: Sept. 17, 2007).

²⁸ FAR § 7.503(c).

Personnel Security Clearances Continue to Experience Delays and Impediments

inherently governmental functions.²⁹ Yet in 2006, the Director of National Intelligence reported that the Intelligence Community finds itself in competition with its contractors for employees and is left with no choice but to use contractors for work that may be “borderline inherently governmental.”³⁰ Unless the federal government, including Intelligence Community agencies, pays the needed attention to the types of functions and activities performed by contractors, agencies run the risk of losing accountability and control over mission-related decisions.

For more than 3 decades, GAO’s reviews of personnel security clearances have identified delays and other impediments in DOD’s personnel security clearance program, which maintains about 2.5 million clearances, including clearances for intelligence agencies within DOD. These long-standing problems resulted in our adding the DOD personnel security clearance program to our high-risk list in January 2005. One important outgrowth of this designation has been the level of congressional oversight from this Subcommittee, as well as some progress.³¹

In the past few years, several positive changes have been made to DOD—as well as governmentwide—clearance processes because of increased congressional oversight, recommendations from our work, and new legislative and executive requirements. One of OMB’s efforts to improve the security clearance process involved taking a lead in preparing a November 2005 strategic plan to improve personnel security clearance processes governmentwide. In its February 2007 and 2008 annual IRTPA-mandated reports to Congress,³² OMB noted additional improvements that

²⁹ FAR § 7.503(c)(8).

³⁰ *The US Intelligence Community’s Five Year Strategic Human Capital Plan*.

³¹ GAO, *DOD Personnel Clearances: Delays and Inadequate Documentation Found for Industry Personnel*, [GAO-07-842T](#) (Washington, D.C.: May 17, 2007); *DOD Personnel Clearances: New Concerns Slow Processing of Clearances for Industry Personnel*, [GAO-06-748T](#) (Washington, D.C.: May 17, 2006); *DOD Personnel Clearances: Government Plan Addresses Some Long-standing Problems with DOD’s Program, But Concerns Remain*, [GAO-06-233T](#) (Washington, D.C.: Nov. 9, 2005); and *DOD Personnel Clearances: Some Progress Has Been Made but Hurdles Remain to Overcome the Challenges That Led to GAO’s High-Risk Designation*, [GAO-05-842T](#) (Washington, D.C.: June 28, 2005).

³² Office of Management and Budget, *Report of the Security Clearance Oversight Group Consistent with Title III of the Intelligence Reform and Terrorism Prevention Act of 2004* (February 2007), and *Report of the Security Clearance Oversight Group Consistent with Title III of the Intelligence Reform and Terrorism Prevention Act of 2004*, (February 2008).

had been made to the security clearance process governmentwide. For example, OMB had issued standards for reciprocity (an agency's acceptance of a clearance issued by another agency), OPM had increased its investigative workforce, and DOD and other agencies had dramatically increased their use of OPM's Electronic Questionnaires for Investigations Processing system to reduce the time required to get a clearance by 2 to 3 weeks. Further, the Director of National Intelligence, the Under Secretary of Defense for Intelligence, and OMB's Deputy Director for Management established a team, the Joint Security Clearance Process Reform Team, to improve the security clearance process. The team is to develop a transformed, modernized, and reciprocal security clearance process that is supposed to be universally applicable to DOD, the Intelligence Community, and other federal agencies. The extent to which this new process will be implemented governmentwide, or whether leadership of the new system will be assigned to the ODNI, however, remains uncertain.

Any attempts to reform the current security clearance process, regardless of which agency or organization undertakes the effort, should include some key factors. Specifically, current and future efforts to reform personnel security clearance processes should consider, among other things, determining whether clearances are required for positions, incorporating more quality control throughout the clearance processes to supplement current emphases on timeliness, establishing metrics for assessing all aspects of clearance processes, and providing Congress with the long-term funding requirements of security clearance reform.

Although we have not worked with the entire Intelligence Community as part of our body of work on security clearances, we have worked with DOD intelligence agencies. For example, in the period from 1998 through 2001, we reviewed National Security Agency clearance investigative reports and Defense Intelligence Agency adjudicative reports. Similarly, our February 2004 report examined information about adjudicative backlogs DOD-wide and the situation in those two intelligence agencies.³³ Importantly, since 1974, we have been examining personnel security clearances mostly on behalf of Congress and some on behalf of this Subcommittee. Through scores of reports and testimonies, we have acquired broad institutional knowledge that gives us a historical view of

³³ GAO, *DOD Personnel Clearances: DOD Needs to Overcome Impediments to Eliminating Backlog and Determining Its Size*, [GAO-04-344](#) (Washington, D.C.: Feb. 9, 2004).

key factors that should be considered in clearance reform efforts. We are well positioned to assist Congress in its oversight of this very important area.

Recent GAO Reviews of Intelligence-Related Programs and Activities

In addition to our work on human capital transformation and personnel security clearance issues, our recent work has also addressed management issues—such as ISR systems, space acquisitions, and the space acquisition workforce—that directly affect the Intelligence Community and illustrate our ability to further support the intelligence and other appropriate congressional committees in their oversight roles. GAO’s highly qualified and experienced staff—including its analysts, auditors, lawyers, and methodologists—and secure facilities position us to perform intensive reviews that could be useful in assessing the transformation and related management reforms under consideration within the Intelligence Community, especially in connection with human capital and acquisition and contracting-related issues. GAO personnel who might perform work relating to the Intelligence Community have qualifications, skills, expertise, clearances and accesses, and experience across the federal government, in the national security arena, and across disciplines. For example, GAO methodologists have expertise in designing and executing appropriate methodological approaches that help us develop recommendations to improve government operations. Our attorneys advise GAO’s analysts, issue external legal decisions and legal opinions, and prepare testimony, legislation, and reports on subjects reflecting the range of government activity. This legal work, for example, involves subjects such as information technology, international affairs and trade, foreign military sales, health and disability law, and education and labor law. GAO also already has personnel with appropriate clearances and accesses. I would like to highlight a couple of examples of GAO’s work to demonstrate our expertise and capacity to perform intensive reviews in intelligence-related matters.

GAO’s Work Addressing ISR Requirements, Operations, and Acquisitions Identified Opportunities for Improvement

In the past year, we have testified and issued reports addressing DOD’s ISR systems, including unmanned aircraft systems. The term “ISR” encompasses multiple activities related to the planning and operation of sensors and assets that collect, process, and disseminate data in support of current and future military operations. Intelligence data can take many forms, including optical, radar, or infrared images, or electronic signals. In April 2007, we testified that DOD has taken some important first steps to formulate a strategy for improving the integration of future ISR requirements, including the development of an ISR Integration Roadmap and designating ISR as a test case for its joint capability portfolio

management concept. We also testified that opportunities exist for different services to collaborate on the development of similar weapon systems as a means for creating a more efficient and affordable way of providing new capabilities to the warfighter.³⁴ As part of another review of ISR programs, we found that nearly all of the systems in development we examined had experienced some cost or schedule growth.³⁵ As part of our work, we selected 20 major airborne ISR programs and obtained information on current or projected operational capabilities, acquisition plans, cost estimates, schedules, and estimated budgets.³⁶ We analyzed the data to determine whether pairs of similar systems shared common operating concepts, capabilities, physical configurations, or primary contractors. We reviewed acquisition plans for programs in development to determine whether they had established sound business cases or, if not, where the business case was weak. We reviewed cost and schedule estimates to determine whether they had increased and, where possible, identified reasons for the increases. Based on our research and findings, we recommended that DOD develop and implement an integrated enterprise-level investment strategy, as well as report to the congressional defense committees the results of ISR studies underway and identify specific plans and actions it intends to take to achieve greater jointness in ISR programs. DOD generally agreed with our recommendations.

We have also performed in-depth reviews of individual space programs that are shared with the Intelligence Community. For example, in recent years we have examined the Space Radar program, which is expected to be one of the most complex and expensive satellite developments ever. We reported that while the program was adopting best practices in technology development, its schedule estimates may be overly optimistic and its overall affordability for DOD, which was partnering with the Intelligence Community, was questionable.³⁷ Our concerns were cited by the Senate Select Committee on Intelligence in its discussion of reasons for reducing funding for Space Radar.³⁸

³⁴ [GAO-07-596T](#).

³⁵ [GAO-07-578](#).

³⁶ These programs were either in technology or systems development, already fielded but undergoing significant upgrade, or operating in the field but due to be replaced by a system in development and one space-based program in technology development.

³⁷ [GAO-07-1029R](#).

³⁸ S. Rep. No. 110-75, at 48 (2007).

GAO's Work on the Space
Acquisition Workforce
Recommended Management
Improvements

Our work on the space acquisition workforce is another example of in-depth programmatic reviews we have been able to perform addressing intelligence-related matters. In a September 2006 report, we identified a variety of management issues dealing with Air Force space personnel.³⁹ This is a critical issue because the Air Force provides over 90 percent of the space personnel to DOD, including the National Reconnaissance Office (NRO). We found that the Air Force has done needs assessments on certain segments of its space workforce, but it has not done an integrated, zero-based needs assessment of its space acquisition workforce. In the absence of an integrated, zero-based needs assessment of its space acquisition workforce and a career field specialty, the Air Force cannot ensure that it has enough space acquisition personnel or personnel who are technically proficient to meet national security space needs—including those in the Intelligence Community. As a part of this work, we collected and analyzed Air Force personnel data in specific specialty codes related to space acquisition and tracked their career assignments, training, and progression, including those assigned to the NRO. For example, we collected and analyzed data on space acquisition positions and personnel from multiple locations, and conducted discussion groups about topics including education and prior experience with junior and midgrade officers at the Space and Missile Systems Center in California. We made recommendations to DOD to take actions to better manage its limited pool of space acquisition personnel, and DOD generally agreed with our findings and recommendations.

GAO's Access to
Perform Audit Work
Could be Affected If
the ODNI Assumes
Management of
Personnel Security
Clearances

Our ability to continue monitoring security clearance-related problems in DOD as well as other parts of the federal government and to provide Congress with information for its oversight role could be adversely affected if the ODNI assumes management responsibility over this area. First, in 2006, OMB's Deputy Director for Management has suggested that the agency's oversight role of the governmentwide security clearance process might be transferred to the ODNI. Alternatively, the ODNI could assume leadership, to some extent, of a new security clearance process that is intended for governmentwide implementation by a team established by the Director of National Intelligence, the Under Secretary of Defense for Intelligence, and OMB's Deputy Director for Management. While we have the legal authority to audit the personnel security clearance area if its

³⁹ [GAO-06-908](#).

oversight is moved to the ODNI or if the Joint Security Clearance Process Reform Team's proposed process is implemented governmentwide, we could face difficulties in gaining the cooperation we need to access the information.

Although we have established and maintained a relatively positive working relationship with the ODNI, limitations on our ability to perform meaningful audit and evaluation work persist. Specifically, we routinely request and receive substantive threat briefings and copies of finished intelligence products prepared under the ODNI, and we meet with officials from the ODNI and obtain information about some of their activities. We also receive the ODNI agency comments and security reviews on most of our draft reports, as appropriate. However, since some members of the Intelligence Community have taken the position that the congressional intelligence committees have exclusive oversight authority, we do not audit or evaluate any programs or activities of the ODNI, nor are we able to verify or corroborate factual briefings or information provided. This resistance to providing us access to information has taken on new prominence and is of greater concern in the post-9/11 context, especially since the Director of National Intelligence has been assigned responsibilities addressing issues that extend well beyond traditional intelligence activities. For example, the ODNI and the National Counterterrorism Center refused to provide us security-related cost data for the 2006 Olympic Winter Games in Turin, Italy, although we were provided this type of data in prior reviews of the Olympic Games.

If we continue to experience limitation on the types and amounts of information we can obtain from the Intelligence Community, then GAO may not be able to provide Congress with an independent, fact-based evaluation of the new security clearance process during its development and, later, its implementation. Either of these actions could occur without legislation. If the ODNI were to take leadership or oversight responsibilities for governmentwide personnel security clearances, it might be prudent to incorporate some legislative provision to reinforce GAO's access to the information needed to conduct audits and reviews in the personnel security clearance area.

GAO Comments on the Intelligence Community Audit Act of 2007

Finally, GAO supports S. 82 and we would be well-positioned to provide Congress with an independent, fact-based evaluation of Intelligence Community management reform initiatives with the support of Congress and S. 82. Specifically, S. 82 would, if enacted, reaffirm GAO's authority, under existing statutory provisions, to audit and evaluate financial transactions, programs, and activities of elements of the Intelligence Community, and to access records necessary for such audits and evaluations. GAO has clear audit and access authority with respect to elements of the Intelligence Community,⁴⁰ subject to a few limited exceptions. However, since 1988, DOJ and some members of the Intelligence Community have questioned GAO's authority in this area. In addition, for many years, the executive branch has not provided GAO with the level of cooperation needed to conduct meaningful reviews of elements of the Intelligence Community. As previously noted, this issue has taken on new prominence and is of greater concern in the post-9/11 context, especially since the Director of National Intelligence has been assigned responsibilities addressing issues that extend well beyond traditional intelligence activities, such as information sharing. The implications of executive branch resistance to GAO's work in the intelligence area were highlighted when the ODNI refused to comment on GAO's March 2006 report involving the government's information-sharing efforts, maintaining that DOJ had "previously advised" that "the review of intelligence activities is beyond the GAO's purview." We strongly disagree with this view. GAO has broad statutory authorities to audit and evaluate agency financial transactions, programs, and activities, and these authorities apply to reviews of elements of the Intelligence Community.⁴¹

Importantly, S. 82, in reaffirming GAO's authorities, recognizes that GAO may conduct reviews, requested by relevant committees of jurisdiction, of matters relating to the management and administration of elements of the Intelligence Community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, organizational transformation and management reforms, and collaboration practices. In recognition of the heightened level of sensitivity of audits and evaluations relating to intelligence sources and methods or covert actions, this bill would restrict

⁴⁰ IRTPA (Pub. L. No. 108-458), which established a Director of National Intelligence, did not alter GAO's authority to audit and evaluate financial transactions, programs, and activities of elements of the Intelligence Community.

⁴¹ DOJ's position and our analysis of it is set forth in more detail in [GAO-06-385](#).

GAO audits and evaluations of intelligence sources and methods or covert actions to those requested by the intelligence committees or congressional majority or minority leaders. In addition, in the context of reviews relating to intelligence sources and methods or covert actions, the bill contains several information security-related provisions. The bill includes, for example, provisions (1) requiring GAO to perform our work and use agency documents in facilities provided by the audited agencies; (2) requiring GAO to establish, after consultation with the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, procedures to protect such classified and other sensitive information from unauthorized disclosure; and (3) limiting GAO's reporting of results of such audits and evaluations strictly to the original requester, the Director of National Intelligence, and the head of the relevant element of the Intelligence Community. In our view, Congress should consider amending the bill language to include the intelligence committees in these reporting provisions when the congressional leadership is the original requester.

The reaffirmation provisions in the bill should help to ensure that GAO's audit and access authorities are not misconstrued in the future. One particularly helpful provision in this regard is the proposed new section 3523a(e) of title 31, specifying that no "provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records." This provision makes clear that, unless otherwise specified by law, GAO has the right to evaluate and access the records of elements of the Intelligence Community pursuant to its authorities in title 31 of the United States Code.

Chairman Akaka, Senator Voinovich, and Members of the Subcommittee, this concludes my prepared testimony. I would be happy to respond to any questions that you or other Members of the Subcommittee may have at this time.

Contact and Acknowledgments

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