

# Project On Government Oversight

Exposing Corruption Exploring Solutions [www.POGO.org](http://www.POGO.org)

March 16, 2009

Sent by e-mail to: [dfars@osd.mil](mailto:dfars@osd.mil)

Defense Acquisition Regulations System  
Attn: Ms. Angie Sawyer  
OUSD (AT&L) DPAP (DARS)  
IMD 3D139  
3062 Defense Pentagon  
Washington, DC 20301-3062

**Subject: DFARS Case 2008-D007**

Dear Ms. Sawyer,

The Project On Government Oversight (POGO) provides the following public comment to DFARS Case 2008-D007 – “Defense Federal Acquisition Regulation Supplement; Senior DoD Officials Seeking Employment With Defense Contractors.” (74 Fed. Reg. 2408 (January 15, 2009)). POGO is an independent nonprofit organization that investigates and exposes corruption and other misconduct in order to achieve a more accountable federal government. Accordingly, POGO has a keen interest in the subject matter of the interim rule and proposed final rule – senior Department of Defense officials seeking employment with defense contractors after leaving DoD service.

The interim rule implements Section 847 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), which requires that a DoD official, who has participated personally and substantially in a DoD acquisition exceeding \$10 million or who has held a key acquisition position, must obtain a written opinion from a DoD ethics counselor regarding the activities that the official may undertake on behalf of a DoD contractor within two years after leaving DoD service before accepting compensation from a DoD contractor. In addition, Section 847 prohibits a DoD contractor from providing compensation to such a DoD official without first determining that the official has received or appropriately requested a post-employment ethics opinion. Failure of a DoD contractor to comply with these requirements could result in cancellation of the contract, suspension, or debarment. Section 847 also requires that all requests for a written opinion and all written opinions provided pursuant to such requests “shall be retained by the Department of Defense in a central database or repository for not less than five years beginning on the date on which the written opinion was provided.”

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POGO supports the rule, as well as its objectives. POGO believes, however, that the central database/repository established under Section 847(b)(1) should be made publicly available.

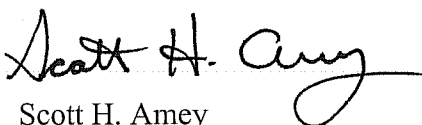
POGO has written extensively about the dangers posed by the so-called “revolving door” between the government and private contractors (see, for example, POGO’s report “The Politics of Contracting,” June 29, 2004; available at <http://www.pogo.org/pogo-files/reports/government-corruption/the-politics-of-contracting/gc-rd-20040629.html>) and has been trying to add transparency to the process. If left unregulated or unmonitored, the movement of officials between government and contractor positions can potentially subvert the contracting process, resulting in flawed policies and bad procurement decisions, ultimately exacerbating public distrust in the government. In the case of the Department of Defense, this could even pose special risks to vital national security matters such as military readiness and weapons systems development.

POGO is a fervent believer in the aphorism “sunshine is the best disinfectant.” Contractors receive hundreds of billions of taxpayer dollars each year from the Department of Defense. The public has a right to know when former senior DoD officials covered under the requirements of Section 847 seek employment with those contractors. In January of this year, POGO wrote to President Obama urging him to make the Section 847 central database/repository available to the public (POGO’s letter is posted at <http://www.pogo.org/pogo-files/letters/contract-oversight/cotc-20090129.html>).

POGO urges the Department of Defense to make the central database/repository under Section 847(b)(1) publicly available. It could even be integrated with the Office of Management and Budget’s contract spending database, USAspending.gov.

Thank you for your consideration of this comment. If you have any questions, you may contact me at (202) 347-1122.

Sincerely,



Scott H. Amey  
General Counsel  
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