



## The Problem

**Existing restraints regarding conflicts of interest and lobbying after service at the Pentagon are woefully inadequate and undermine the reputation and operational integrity of the Department of Defense (DOD).** Today, post-government employment restrictions on lobbying and recusal periods for certain individuals with financial conflicts of interest only last for one year.<sup>1</sup> Moreover, lobbying restrictions are not codified in acquisition regulations.<sup>2</sup> These inadequate laws risk prioritizing the financial interests of senior officials and arms contractors over national security. Over the past two decades, the largest defense contractors collectively made \$285 million in campaign contributions and spent \$2.5 billion in lobbying while hiring hundreds of lobbyists with Defense Department backgrounds.<sup>3</sup>

A new Government Accountability Office (GAO) report found that insufficient post-government employment monitoring of defense personnel and lack of enforcement mechanisms perpetuate the revolving door phenomenon.<sup>4</sup> In addition, a Project On Government Oversight (POGO) report identified 380 high-ranking former Pentagon officials who transitioned from the DOD to private companies between 2008 and 2018 and almost immediately became lobbyists, board members, executives, and consultants for defense contractors.<sup>5</sup>

Administrations of both political parties have worked to strengthen post-government employment restrictions. The Obama, Trump, and Biden administrations all issued executive orders that included limitations on appointees who were leaving government, including a two-year prohibition on lobbying former employing agencies.<sup>6</sup> But executive action is not sufficient. For example, Presidents Trump and Clinton revoked their own rules as they left the White House.<sup>7</sup> We need consistent laws and limitations, regardless of who is president.

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<sup>1</sup> Project On Government Oversight, *Brass Parachutes: Defense Contractors' Capture of Pentagon Officials Through the Revolving Door* (November 5, 2018), 68, 74, 84, [https://s3.amazonaws.com/docs.pogo.org/report/2018/POGO\\_Brass\\_Parachutes\\_DoD\\_Revolving\\_Door\\_Report\\_2018-11-05.pdf](https://s3.amazonaws.com/docs.pogo.org/report/2018/POGO_Brass_Parachutes_DoD_Revolving_Door_Report_2018-11-05.pdf).

<sup>2</sup> Timothy J. DiNapoli, Government Accountability Office, *Post-Government Employment Restrictions: DOD Could Further Enhance Its Compliance Efforts Related to Former Employees Working for Defense Contractors*, GAO-21-104311 (September 2021), 16, <https://www.gao.gov/assets/gao-21-104311.pdf>.

<sup>3</sup> Dan Auble, OpenSecrets, *Capitalizing on conflict: How defense contractors and foreign nations lobby for arms sales*, (February 25, 2021), <https://www.opensecrets.org/news/reports/capitalizing-on-conflict>.

<sup>4</sup> DiNapoli, *Post-Government Employment Restrictions*, 12 [see note 2].

<sup>5</sup> Project On Government Oversight, *Brass Parachutes*, 9-10 [see note 1].

<sup>6</sup> Jacob R. Straus, Congressional Research Service, *Ethics Pledges and Other Executive Branch Appointee Restrictions Since 1993: Historical Perspective, Current Practices, and Options for Change*, R44974 (February 23, 2021), 11, [https://www.everycrsreport.com/files/2021-02-23\\_R44974\\_46ab79189ecdc00894310b8a3d2098bcc37d088.pdf](https://www.everycrsreport.com/files/2021-02-23_R44974_46ab79189ecdc00894310b8a3d2098bcc37d088.pdf).

<sup>7</sup> Meredith McGraw, "Trump revokes rule preventing White House staff from lobbying," *Politico*, January 20, 2021, <https://www.politico.com/news/2021/01/20/trump-revokes-rule-lobbying-by-white-house-staff-460608>; John Mintz, "Clinton Reverses 5-Year Ban On Lobbying By Appointees," *Washington Post*, December 29, 2000, <https://www.washingtonpost.com/archive/politics/2000/12/29/clinton-reverses-5-year-ban-on-lobbying-by-appointees/e5a0571f-5c54-4988-adc6-5571a7557e83/>.

## The Solution

**The final National Defense Authorization Act for Fiscal Year 2022 must include bold, bipartisan actions that reinforce the DOD’s integrity.** The final National Defense Authorization Act conference report should incorporate these critical measures that are included in the House version of the NDAA:

- Increase lobbying restrictions for certain former senior executive branch personnel governmentwide from one to two years (Sec. 6494 of H.R. 4350). Congress established limits on post-government activities to protect the integrity of the procurement process. This provision would make some of those reforms permanent by extending the cooling-off period for some appointees from one year to two years.
- Expand recusal periods for DOD officers and employees with financial conflicts of interest (Sec. 1121 of H.R. 4350 and Sec. 1103 in S. 2792). Individuals joining the Pentagon after working for or on behalf of Department of Defense contractors can create a perception of favoritism that undermines competition. Longer recusal periods for those officials will help prevent future conflicts of interest.
- Codify current lobbying prohibitions in acquisition regulations, as recommended by the Government Accountability Office (Sec. 823 of H.R. 4350). Not including these restrictions in acquisition regulations, the GAO wrote, means “DOD may be missing an opportunity to create a sense of shared accountability between the employees and the contractors who hire them and a means of ensuring that the government does not do business with companies whose employees violate the lobbying restriction with their employers’ knowledge.”<sup>8</sup>

## Contacts

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<sup>8</sup> DiNapoli, *Post-Government Employment Restrictions*, 21 [see note 2].