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DoD Complied With Policies on Converting Senior Mentors to Highly Qualified Experts, but Few Senior Mentors Converted

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Acronyms and Abbreviations

AFAA	Air Force Audit Agency
AAA	Army Audit Agency
HQE	Highly Qualified Expert
OGE	Office of Government Ethics
SES	Senior Executive Service
U.S.C.	United States Code
USJFCOM	U.S. Joint Forces Command
USMC	U.S. Marine Corps
USSOCOM	U.S. Special Operations Command
USSTRATCOM	U.S. Strategic Command



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October 31, 2011

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL
AND READINESS

SUBJECT: DoD Complied With Policies on Converting Senior Mentors to Highly Qualified Experts, but Few Senior Mentors Converted (Report No. D0DIG-2012-009)

We are providing this report for your information and use. The Secretary of Defense issued a policy memorandum on April 1, 2010, to ensure consistency and transparency in the DoD senior mentor program. The policy required DoD to hire all senior mentors as highly qualified experts (HQEs) by June 30, 2010, to the maximum extent possible. The DoD Office of Inspector General performed an audit of the DoD conversion of senior mentors to HQEs in response to a mandate in the explanatory statement for the Fiscal Year 2010 Defense Appropriations Act.

AUDIT OBJECTIVE

Our objective was to determine whether DoD implemented and complied with the Secretary of Defense memorandum, "Policy on Senior Mentors," April 1, 2010. Specifically, we determined whether DoD properly converted senior mentors to HQEs and consistently implemented the Secretary of Defense senior mentor policies. We reviewed the Navy, U.S. Marine Corps (USMC), and selected Combatant Commands controls for implementing and complying with DoD policies for converting senior mentors to HQEs. We did not review the Departments of the Army and Air Force because their respective audit agencies were performing these reviews.

RESULTS SUMMARY

Navy, USMC, U.S. Joint Forces Command (USJFCOM), U.S. Special Operations Command (USSOCOM), and U.S. Strategic Command (USSTRATCOM) officials complied with DoD policies for converting senior mentors to HQEs. As of February 28, 2011, 11 of the 194 reported senior mentors for FY 2010 converted to HQEs. The other 183 senior mentors did not convert to HQEs and are no longer working as senior mentors. Seven of the 11 HQEs have since resigned. The other four HQEs properly converted within the appropriate time frame and in accordance with DoD policies.

BACKGROUND

The Secretary of Defense issued the April 2010 policy memorandum to ensure consistency and transparency across DoD for its senior mentor program. The policy defines a senior mentor as

a retired flag, general or other military officer or senior retired civilian official who provides expert experience-based mentoring, teaching, training, advice, and recommendations to senior

military officers, staffs and students as they participate in war games, war fighting courses, operational planning, operational exercises, and decision making exercises.

The policy states that the senior mentor program

enhances the readiness of our Armed Forces across a wide range of strategic, operational, joint, functional, technical, managerial and developmental issues. The relevant prior service, joint force experience, and unique expertise of these senior consultants provide senior leadership with valuable insights and contribute to the continuous improvement of the Department's operations.

Further, it states that

it is important that DoD be able to secure the kind of specialized expertise required for these operational exercises. At the same time, it is imperative that the experts we hire be subject to certain ethics laws and regulations that apply to Federal employees to avoid any perception of impropriety.

The policy requires DoD to hire all senior mentors as HQEs under section 9903, title 5, United States Code, and it requires HQEs to comply with all applicable Federal personnel and ethics laws and regulations. In addition, the policy states that as a part-time Federal employee, an HQE may not divulge nonpublic information or participate in official matters that raise a financial conflict of interest. Further, HQEs are required to file a financial disclosure report. The policy requires that, to the maximum extent practicable, current senior mentors be converted to HQEs by June 30, 2010.

In June 2010, we determined, based upon a data call, the number of senior mentors for FY 2010, using the Secretary of Defense April 1, 2010, definition of senior mentors. We determined that there were 355 senior mentors in FY 2010. See Attachment 1 for the number of senior mentors by DoD organization. After our data call, the Deputy Secretary of Defense issued the memorandum, "Implementation Guidance on Senior Mentor Policy," July 8, 2010, which clarifies and specifically defines the terms used in the April 1, 2010, memorandum. For example, the July 2010 memorandum defines "other military officers" as retired officers at the 0-6 rank. See Attachment 2 for the definitions of the terms used in the Deputy Secretary of Defense memorandum and other applicable guidance on senior mentors.

In September 2010, the Office of Government Ethics (OGE) determined that senior mentor positions are of "equal classification" with positions required to file an SF-278, "Public Financial Disclosure Report,"¹ such as active duty flag and general officers. On November 12, 2010, the Deputy Secretary of Defense issued a memorandum, "Revised Guidance on Senior Mentor Financial Disclosure Requirement," which directed that senior mentor position descriptions be updated no later than 30 days from November 12, 2010, to reflect that filing an SF-278 is a condition of appointment, irrespective of an individual's rate of pay or number of days reasonably expected to serve in a calendar year. HQEs had 30 days from the date of the updated position descriptions to file their SF-278.

¹ As of December 17, 2010, OGE renamed the SF-278 as OGE-278.

SENIOR MENTORS CONVERTED TO HQES

Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM officials complied with DoD policies for converting senior mentors to HQEs. As of February 28, 2011, 11 of the 194 senior mentors converted to HQEs. The other 183 senior mentors did not convert to HQEs and are no longer working as senior mentors. Seven of the 11 HQEs have since resigned. (See Table 1.) The other four HQEs properly converted within the appropriate time frame and in accordance with DoD policies.

Table 1. Status of Senior Mentors Reported for FY 2010

DoD Organization	Number of Senior Mentors	Converted to HQEs	Resigned After Converting
Navy	109	0	0
USMC	15	4	1
USJFCOM	53	7	6
USSOCOM	17	0	0
USSTRATCOM	0	0	0
Total	194	11	7

ACTIONS TAKEN BY DOD ORGANIZATIONS

The Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM took action to implement and comply with DoD policies for converting senior mentors to HQEs.

Navy

According to the Navy official overseeing their senior mentor program, the Navy ceased contracting for senior mentor services. Because of the number and location of the Navy contracts, we did not review any of them. However, we requested and received certifications signed by the responsible Navy contracting officers stating that senior mentors were not working under any contracts.

United States Marine Corps

The USMC ceased contracting for senior mentor services by the approved September 30, 2010, extension date.² Our review of USMC contracts showed that the contracts expired by the September 30, 2010, deadline, or the USMC deobligated funds on contracts that had senior mentor services.

U.S. Joint Forces Command

USJFCOM ceased contracting for senior mentor services by the approved September 30, 2010, extension date.² In addition, the Navy Fleet Industrial Supply Center, Philadelphia,³ issued a

² The USMC and USJFCOM requested and received extensions of the June 30, 2010, deadline for converting senior mentor to HQEs.

³ The Navy is the contracting activity for USJFCOM.

contract modification in January 2010 concerning existing USJFCOM contracts. The modification required contractors to notify the contracting officer if they intend to use the services of former or retired general officers, flag officers, or members of the Senior Executive Service (SES) on a contract and/or task order. The contract modification also stated that the contractor shall

notify the contracting officer of the name of such individual including a description of the services such individual will be performing, the military branch from which the individual retired or separated, and their rank or SES position at time of separation. Such notification shall be provided in writing prior to performance of services under the contract and/or task order by such individual.

In addition, we reviewed 40 task orders associated with six contracts that USJFCOM identified as previously having senior mentor work performed. Our review showed that for 36 of the task orders, the performance period ended before September 30, 2010. We did not identify any senior mentor work being performed on the remaining four task orders.

U.S. Special Operations Command

USSOCOM contracting officials conducted a review of their contract files and determined that they did not have any senior mentors under contract. USSOCOM contracting officials provided a list of 5 contracts and the 48 task orders associated with these contracts that had general officers, flag officers, or SES members under contract. We selected a nonstatistical sample of 20 task orders from these 5 contracts based on those that would most likely have senior mentor work being performed. For example, we selected the task orders that were for conducting operational exercises and training. Our review of the 20 task orders did not identify any senior mentors working on these contracts.

U.S. Strategic Command

USSTRATCOM issued Strategic Command Instruction 941-02, "U.S. STRATCOM Senior Mentor Management Program," June 30, 2010, which institutionalizes the Secretary of Defense policies for hiring senior mentors and establishes a process for contracting for the services of retired general officers, flag officers, or SES members. The Strategic Command Instruction states that USSTRATCOM must be able to secure the kind of premier expertise required for operational mission requirements and exercises. At the same time, experts hired are subject to similar ethics laws and regulations that apply to full-time Federal employees to avoid the perception of impropriety.

REASONS SENIOR MENTORS DID NOT CONVERT TO HIGHLY QUALIFIED EXPERTS

Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM officials stated that there were various reasons why senior mentors did not convert to, or resigned as, HQEs, including:

- the requirement to file a public financial disclosure report,
- the possibility of limited basic and supplemental pay, and
- the potential for limited employment opportunities in the private sector.

Public Financial Disclosure. According to senior officials at several activities we visited, some senior mentors did not convert to HQEs because of the requirement to file public financial disclosure reports. On September 29, 2010, OGE issued a determination that all senior mentor positions were of “equal classification” with positions required to file SFs-278 (now OGE-278). On November 12, 2010, the Deputy Secretary of Defense issued a memorandum, “Revised Guidance on Senior Mentor Financial Disclosure Requirement,” establishing that filing the SF-278 was a condition of employment.

Limited Pay. Senior officials at several activities we visited stated that some senior mentors did not convert to HQEs because the new policy limited senior mentor pay. Specifically, the Secretary of Defense memorandum, “Policy on Senior Mentors,” April 1, 2010, states that an HQE may be paid up to the amount authorized for the Executive Schedule Level II, which in 2010 was \$179,700 (\$86.10 per hour). This amount was equivalent to a salary authorized for 3- and 4-star flag and general officers on active duty.

Conflict of Interest Requirements. According to USJFCOM officials, some senior mentors did not convert to HQEs because potential conflicts of interest could limit an HQE’s employment opportunities in the private sector. The Secretary of Defense memorandum states that HQEs cannot participate in an official capacity in any particular matter in which they have a financial conflict of interest. It also states that HQEs who served more than 60 days in a 365-day period would be subject to a 1-year cooling-off period that would restrict them from representing clients and other entities to DoD on matters pending at the Department.

COMPLIANCE WITH PUBLIC DISCLOSURE REQUIREMENTS

As of February 28, 2011, 11 senior mentors converted to HQEs, 4 from USMC and 7 from USJFCOM. Seven of the 11 senior mentors were not required to file a financial disclosure report because they subsequently resigned from their positions before the filing deadline. The remaining four senior mentors, three from the USMC and one from JFCOM, filed public financial disclosure reports in accordance with the November 12, 2010, guidance. As of February 28, 2011, the Navy, USSOCOM, and USSTRATCOM did not have any senior mentors that converted to HQEs; therefore, there were no financial disclosure reports to review.

ARMY AND AIR FORCE AUDIT AGENCY AUDITS

Both the Army Audit Agency (AAA) and the Air Force Audit Agency (AFAA) conducted audits of their Department’s implementation of DoD’s senior mentor policies.

Army Audit Agency. The AAA audited the Army process for implementing the Secretary of Defense’s policies on senior mentors. The announced objective was to determine whether the Senior Leader Program and the participants were in compliance with DoD and Army guidance. AAA Report No. A-2011-0155-FFF, “Senior Leader Mentor Program,” July 8, 2011, stated the Army auditors found reasonable assurance that the Army complied with DoD and Army guidance related to senior mentors. The AAA auditors also found that the Army discontinued using contracted senior mentors for warfighting exercises and modified or terminated contracts in accordance with Army Directive 2010-03, “Senior Mentors,” July 16, 2010. In addition, the

conversion and hiring process for senior mentors as HQEs for the senior mentor program and its participants complied with applicable DoD and Army guidance.

Air Force Audit Agency. The AFAA conducted the audit to determine whether Air Force officials established and implemented an effective program to transition senior mentors to HQEs. The announced objectives were to determine whether Air Force personnel developed adequate procedures to implement DoD HQE program policies and guidance for senior mentors and effectively executed HQE program procedures for senior mentors. Report No. F2012-0001-FC1000, “Transition of Contract Senior Mentors to Highly Qualified Experts,” October 17, 2011, stated that Air Force officials established an effective program to transition senior mentors to HQEs, but program implementation required improvement. Specifically, Air Force senior leadership established adequate procedures to implement DoD HQE policies and guidance for senior mentors. However, Air Force personnel could improve their program by developing performance plans for each HQE senior mentor and by improving execution of senior mentor financial disclosure requirements. The report also stated that as of March 29, 2011, the Air Force employed six HQE senior mentors.

REVIEW OF INTERNAL CONTROLS

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, requires DoD organizations to implement a system of internal controls that provides reasonable assurance about the effectiveness of the controls. We did not identify any internal control weaknesses, as defined by DoD Instruction 5010.40, regarding the Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM implementation and compliance with DoD policies for converting senior mentors to HQEs.

AUDIT STANDARDS

We conducted this audit from September 2010 through October 2011 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

SCOPE AND METHODOLOGY

We performed this audit in response to a mandate in the explanatory statement of the Fiscal Year 2010 Defense Appropriations Act. In July 2010, the DoD IG provided the House Appropriations Committee, Subcommittee on Defense, the number of senior mentors for FY 2010.

For this audit, we determined the status of the Secretary of Defense senior mentor policies as of February 28, 2011. We used the data we collected in June 2010 to select the DoD organizations that we reviewed. Specifically, we reviewed the conversion of senior mentors to HQEs at the Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM.

We did not review the conversion of senior mentors to HQEs at the Departments of the Army and Air Force because the AAA and AFAA announced audits with similar audit objectives. We coordinated our approach with AAA and AFAA. On the basis of the July 2010 data, we reviewed 194 of 355 (55 percent) of the reported senior mentors for FY 2010.

To answer our objective, we obtained and reviewed DoD policies on senior mentors. We conducted interviews at the Navy, USMC, USJFCOM, USSOCOM, and USSTRATCOM to obtain an understanding of how they implemented DoD policies on senior mentors and the status of their implementation at the time of our audit. We also requested the number of senior mentors that converted to HQEs. We reviewed the hiring packages for those senior mentors that converted to HQEs. Specifically, we reviewed the position descriptions, requests for personnel action, HQE justification forms, resumes of appointees, and financial disclosure reports.

In addition, we reviewed a nonstatistical sample of FY 2010 contracts at USSOCOM and contracts at the USMC, USJFCOM, and USSTRATCOM that these organizations identified as having senior mentor services. We reviewed contracts that provided overall support to the organization and contracts with senior mentors for specific services. Specifically, we reviewed contracts, task orders, contract modifications, subcontracts, and invoices.

We reviewed the following contracts, subcontracts, contract modifications, and task orders.

- USMC: 7 contracts and 3 subcontracts
- USJFCOM: 6 subcontracts and 40 task orders
- USSOCOM: 5 contracts and 20 task orders
- USSTRATCOM: 4 contracts and 113 modifications

USMC had subcontracts through a prime contractor, where the senior mentor work was a small part of a large task order that did not give much detail on senior mentor responsibilities. For the subcontracts, we requested and reviewed invoices to determine the extent of the senior mentors' work. We also reviewed contracts specifically for senior mentors, which gave details on senior mentor responsibilities. For the contracts, we ensured that unapproved senior mentors were not working after September 30, 2010 (the date of the approved extension). If a senior mentor resigned, we reviewed the contract to ensure that it ceased and funds were deobligated.

USJFCOM had subcontracts through a prime contractor, where the senior mentor work was a small part of a large task order that did not give much detail on senior mentor responsibilities. For the subcontracts, we reviewed invoices to determine the extent of the senior mentors' work. However, the invoices did not give sufficient detail. Therefore, we requested and received a certification signed by responsible USJFCOM contracting officer representatives asserting that senior mentors were no longer working under these USJFCOM contracts.

USSOCOM and USSTRATCOM had contracts that provided overall support to their organizations; therefore, we did not review the entire contract. These contracts included a variety of services and deliverables, and the requirement for senior mentor services was a small piece of the overall contract. Therefore, we requested and reviewed task orders that had

performance work statements requiring senior mentor tasks and had retired flag officers or retired senior civilian officials working on the contract.

We did not review Navy contracts because of the number and location of the contracts. In addition, they were similar to USJFCOM contracts, which did not give sufficient detail. Therefore, we determined that a review of these contracts would not be conclusive. However, we requested and received certifications signed by the responsible Navy contracting officers that senior mentors were not working under contract.

USE OF COMPUTER-PROCESSED DATA

We did not use computer-processed data to perform this audit.

USE OF TECHNICAL ASSISTANCE

The DoD Office of Inspector General Technical Analysis and Coordination Cell assisted in reviewing USSOCOM contract files.

PRIOR AUDIT COVERAGE

During the last 5 years, the AAA and AFAA have each issued a report on the senior mentor program. AAA issued Report No. A-2011-0155-FFF, "Senior Leader Mentor Program," July 8, 2011. Unrestricted Army reports can be accessed over the Internet at <https://www.aaa.army.mil>. AFAA issued Report No. F2012-0001-FC1000, "Transition of Contract Senior Mentors to Highly Qualified Experts," October 17, 2011. Unrestricted Air Force reports can be accessed over the Internet from .mil domains by those with Common Access Cards at <https://afkm.wpafb.af.mil/ASPs/CoP/OpenCoP.asp?Filter=OO-AD-01-41>.

You can obtain information about the Department of Defense Office of Inspector General from DoD Directive 5106.01, "Inspector General of the Department of Defense," April 13, 2006, change 1, September 25, 2006; DoD Instruction 7600.02, "Audit Policies," April 27, 2007; and DoD Instruction 7050.3, "Access to Records and Information by the Inspector General, Department of Defense," April 24, 2000. Our Web site address is www.dodig.mil.

We appreciate the courtesies extended to the staff. If you have any questions, please contact me at (703) 601-5868 (DSN 329-5868).



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Assistant Inspector General
Financial Management and Reporting

Attachments:
As stated

Number of Senior Mentors by DoD Organization for Fiscal Year 2010

DoD Organization	FY 2010
Army	90
Navy	109
Air Force	39
USMC	15
U.S. Joint Forces Command*	53
U.S. Special Operations Command	17
U.S. Northern Command	7
U.S. Strategic Command	0
Defense Agencies	10
Joint Service Schools	15
Total	355

*Effective February 9, 2011, the Secretary of Defense approved the disestablishment plan for the U.S. Joint Forces Command by August 31, 2011, with the transition of personnel to be completed by March 2012.

DoD Senior Mentor Policy and Related Guidance

The Deputy Secretary of Defense issued the memorandum, "Implementation Guidance on Senior Mentor Policy," July 8, 2010, which requires highly qualified experts (HQEs) to file a confidential financial disclosure form. The memorandum also states that senior mentors appointed as HQEs are to file the OGE-450, "Confidential Financial Disclosure Report," instead of the public report (SF-278), based on specific guidance received from the Office of Government Ethics (OGE). The memorandum further provides that

OGE has determined that, with respect to the DoD-unique HQE appointment, it is appropriate to look not at an individual HQE's actual pay, but at the lowest pay in the HQE range of pay when deciding whether the public or the confidential report must be filed. The HQE pay range begins at the GS-15, Step 1 level. Therefore, OGE has concluded that an HQE . . . is to file the confidential financial disclosure report (OGE 450).

In addition, the memorandum defines the following terms.

Other Military Officer. As a general matter, this term is limited to retired 0-6s. Those 0-6 mentors whose level of expertise is not high enough to warrant HQE appointment may be hired at less cost to the Government as a Government employee, but they must also file a nondisclosure agreement and a financial disclosure report.

Senior Retired Civilian Official. The term means a retired member of the SES or equivalent from the Executive Branch, including former presidential appointees confirmed with the advice and consent of the Senate, noncareer SES, and former U.S. ambassadors and senior Foreign Service officers.

Senior Military Officers, Staffs, and Students. The category generally means military officers, staffs, and students at grade 0-7 and above, or civilian equivalent.

Warfighting Courses. These courses are meant to cover instruction that has, as its primary purpose, the preparation of general or flag officers for the challenges and requirements of command or senior staff positions in a combat zone. It has an operational, as opposed to purely academic or theoretical, focus. The Joint Flag Officer Warfighting Course is an example that is covered by the policy. It is designed to teach future task force commanders and senior staff members the challenges and requirements of joint warfighting.

Operational Planning. This planning includes only operational planning exercises where actual mentoring can occur. Budget planning advice, regional history white papers, political briefings, or strategic assessments are not considered operational planning.

ATTRACTING HIGHLY QUALIFIED EXPERTS

Section 9903, title 5, United States Code (5 U.S.C. § 9903), part 3, provides for the Secretary of Defense to establish a program for DoD to seek and hire HQEs to provide advice and mentoring services to high-ranking military members. Further, 5 U.S.C. § 9903 limits HQE pay to SES level 4; limits additional payments to HQEs; set a 5-year service limit, which can be extended to 6; and limits the number of DoD HQEs to a maximum of 2,500 at any given time.

EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

Title 5, Code of Federal Regulations, Section 2634, “Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture,” provides procedures and requirements for financial disclosure and for the certification and use of qualified blind and diversified trusts. The rules in this regulation oversee both public and confidential financial disclosure systems. Specifically, section 2634.605 requires all financial disclosure reports to be reviewed within 60 days from the date of filing and certified by signature and date.



Inspector General Department of Defense

