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The enforcement of regulations pertaining to financial disclosure reporting in the Federal Government is considered in connection with a bill to establish a commission on ethics and financial disclosure for officers and employees of the Federal Government. GAO believes that oversight and investigation of individual Members of Congress are not consistent with its role as a nonpartisan arm of Congress. Placing the responsibility for administering financial disclosure with the Comptroller General could damage the overall effectiveness of the GAO. A commission on ethics and financial disclosure should be created with the responsibility for developing uniform standards and consistent procedures for the financial disclosure system. Disclosure reports could be filed with individual agencies and transmitted by the agencies to such a commission. Individuals who should be required to file financial disclosure reports, information to be reported, and review of such reports are considered. (RRS)

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STATEMENT OF CLIFFORD I. GOULD  
DEPUTY DIRECTOR, UNITED STATES GENERAL ACCOUNTING OFFICE  
BEFORE THE  
SUBCOMMITTEE ON MANPOWER OF THE HOUSE  
POST OFFICE AND CIVIL SERVICE COMMITTEE

Madam Chairwoman and Members of the Subcommittee:

We appreciate the opportunity to be of assistance to the Subcommittee by testifying on the General Accounting Office reviews of the enforcement of regulations pertaining to financial disclosure reporting in the Federal Government and on H.R. 3829, a bill to establish a commission on ethics and financial disclosure for officers and employees of the Federal Government.

Since January 28, 1977, when the Comptroller General sent the draft legislation embodied in H.R. 3829 to Congress, the House has adopted H. Res. 287, which establishes a financial disclosure system for Members, officers and employees of the House of Representatives and includes other provisions governing the conduct of these individuals.

Senate Resolution which would require financial disclosure and impose other responsibilities on Members and certain employees of the Senate, is now under consideration. In addition, President Carter is considering issuing an Executive Order establishing a code of

official conduct for officers and employees of the executive branch. Further, recent Cabinet appointees have been required by the new administration to make unprecedented disclosures of net worth, sources and amounts of income, restrictions following Government employment and agreements to serve for the entire appointed term.

As you pointed out in your statement on February 22, 1977, H.R. 3829 embodies draft legislation proposed by the Comptroller General. That draft accompanied a letter to the Speaker of the House of Representatives which you placed in the Record, at the time you introduced this bill, together with an alternative draft of legislation prepared by our Office. This alternative bill (H.R. 3828) was referred to the Committee on the Judiciary.

The Comptroller General's letter stated the reason for the action of our Office in submitting proposed legislation to the Congress was that numerous bills have been introduced, which would place the administrative responsibility, the receiving of reports, and investigative functions relating to financial disclosure with the Comptroller General of the United States. In the past the Comptroller General has expressed his strong opposition to such proposals and emphasized the serious repercussions they would have on the General Accounting Office if enacted.

We endeavor to remain completely nonpartisan and free from any type of political influence in carrying out the functions vested in

our Office. We do not believe that oversight and investigation of individual Members of Congress is consistent with our role as a non-partisan arm of the Congress.

Moreover, placing the responsibility for administering financial disclosure with the Comptroller General, particularly as it relates to financial disclosure problems of Members of the Congress, could potentially do great damage to the overall effectiveness of the General Accounting Office and endanger the close relationship which this Office must have with Members and committees of the Congress.

We think there is much to be said for the creation of a commission on ethics and financial disclosure to be responsible for developing uniform standards and consistent procedures for implementing, administering, and investigating ethical conduct for the financial disclosure system, and for rendering formal advisory opinions and counsel on potential conflict-of-interest matters. The General Accounting Office could be given specific responsibility for maintaining oversight of these systems.

We believe that if disclosure reports were filed with the individual agencies and transmitted by the agencies to such a commission, the objectives sought could be achieved with minimal disruption and costs and could be merged with existing systems in each branch. This would allow the responsible officers of each branch to review the reports to determine whether apparent or potential conflicts of interest exist with the employees' official duties. Such reviews are extremely important

and are currently required to be performed by each agency in the executive branch. It is essential that the agency head continue to be held accountable for any questionable interests. Agency heads are in a better position to know and make judgments as to what specific financial interests an employee should not have based on their responsibilities.

With these concerns in mind, the Comptroller General submitted for your consideration the draft bill introduced as H.R. 3829 which incorporates many features of the various legislative proposals introduced in the Congress, but with significant modifications. He has not necessarily endorsed all of the provisions of the draft bill.

In the event Congress should not favor the establishment of an independent commission on ethics and financial disclosure, we have recommended that the primary responsibility for ethics and financial disclosure in each of the branches of the Federal Government be centralized in an office of ethics in the executive branch, the Clerk of the House of Representatives, the Secretary of the Senate, and the Director of the Administrative Office of the United States Courts, respectively.

In any legislation that is considered by the Congress, we believe there are several questions that need to be considered and resolved.

#### WHO SHOULD FILE?

We believe that the following individuals should be required to file financial disclosure reports.

- (1) the President and any candidate for that office;
- (2) the Vice President and any candidate for that office;
- (3) each Member of Congress and any candidate for Congress;
- (4) each justice or judge of the United States;
- (5) each presidential nominee;
- (6) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-16 of the general schedule or any higher grade or position;
- (7) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade 0-7 or any higher grade of pay established under chapter 3 of title 37, United States Code;
- (8) special Government employees (consultants and experts); and
- (9) such other member of a uniformed service, officer or employee as may be determined to be necessary by the administering officer in each Government agency.

This would require the Government-wide filing of at least 23,000 reports for the GS-16 and 0-7 level and above. The executive branch agencies currently require about 80,000 employees at various grade levels to file reports.

## WHAT INFORMATION SHOULD BE REPORTED?

Based on our experience of reviewing agency financial disclosure systems, we believe individuals should be required to report:

1. Sources of earned income (other than from Federal Government)-- name, address, and nature of the business; services rendered for income; and amount.
2. Gifts, honorariums, and travel reimbursements (other than from Federal Government)--source, value, and date of receipt of (a) gifts other than from relatives; (b) honorariums; and (c) reimbursements for transportation, lodging, food, or entertainment.
3. Ownership of securities, bonds, patent rights, and commodities' futures--name, address, and nature of the business or commodity; dates of acquisition and divestiture; and value.
4. Organizational relationships--name, address, and nature of business or entity with which connected (as an employee, officer, owner, director, member, trustee, partner, or adviser or through a pension plan, shared income, severance payments, agreement for future employment, or other arrangement.
5. Liabilities (other than ordinary household expenses and mortgage on personal residence)--name, address, and nature of the business to which liable; date liability was assumed; and amount.

6. Real property--address or legal description of property location other than that which is occupied as a personal residence, purpose for which property is used, date of acquisition or divestiture, and approximate market value.

Individuals should also report whether the financial interest belongs to them, their spouses, or their dependent children. The value of the interests should be reported in categorical dollar amounts in order to minimize the invasion of privacy.

We also believe that each Government agency should be required to determine what, if any, additional information is needed to preclude employee conflicts of interest and require such information to be reported.

#### WHO SHOULD REVIEW REPORTS?

The Clerk of the House of Representatives, the Secretary of the Senate, the Director of the Administrative Office of the United States Courts, the head of the executive branch office of ethics, and the head of each agency should make provisions to assure that each report filed with them is reviewed in accordance with any law or regulation with respect to conflicts of interest. As pointed out earlier, we believe it is essential that the heads of agencies continue to be held accountable for any questionable interests. Subsequent to the review of the statements, the administering office in each branch of Government should transmit a copy of each disclosure report to the ethics commission, should one be established.



HOW CAN INDIVIDUAL RIGHTS OF PRIVACY BE  
SAFEGUARDED UNDER A SYSTEM OF PUBLIC DISCLOSURE?

While the House of Representatives has decided to have public disclosure of financial interests of its Members, we believe that as legislation is considered for the three branches of Government, the Congress should continue to balance conflict-of-interest and public disclosure concerns with the rights of individuals to privacy. This is a difficult task, requiring trade-offs between equally meritorious goals. Achieving this balance will require (a) careful judgments as to which individuals should be required to disclose resources, (b) limitation of routine disclosure to those with a "need to know," and (c) disclosure requirements structured to preclude the use of financial disclosure reports as shopping lists by criminals.

Obviously, the Congress faces a difficult dilemma in seeking to accommodate the public policy considerations underlying requirements for public disclosure of personal financial information and the right of personal privacy which affects all of us. This dilemma is somewhat the same as is inherent in the public policy aims of the Freedom of Information Act and the Privacy Act of 1974--the one promoting openness in Government administration and the other carefully spelling out the basis upon which "private" information in the hands of the Government may be used and disclosed.

Here the primary concern is promoting confidence in public officials through a code of ethics and full disclosure of their personal financial status. Aside from any philosophical or ethical objections which might be voiced against such disclosure, there are difficult problems that

need to be considered--problems which, to our mind, are avoidable without undermining the overall objective being pursued.

Provisions should be made to require notice to the individual involved that disclosure of his financial report has been made and to whom. We believe the requestor should be required to present a written request giving his name; address; names and addresses of the persons or organizations, if any, or on whose behalf he is making the request; the reason for the request; the purpose for which the financial report will be used; and the basis upon which he believes the report contains information indicating the existence of a conflict of interest or potential conflict of interest.

The legislation should authorize the administering agency to issue regulations limiting access to pertinent information in these reports to conflict of interest or potential conflict-of-interest situations (e.g., interests, gifts or other relationships of officials of the regulatory agencies in companies regulated or affected by their regulations).

In the event the custodian of reports determines that release of a report will be denied he should be required to make a public statement of the reason for such denial, stating specifically any finding made that no conflict of interest or potential conflict of interest appears in such report.

We also believe there should be a system to receive complaints from the public concerning violations of standards of conduct laws or

regulations, and that the administering agency should notify the person involved in such violation, and should conduct such investigations and hearings necessary to resolve complaints.

This concludes my prepared statement. We will be pleased to respond to any questions.