

# GAO TO HAVE OVERSIGHT OF MOST- SECRET DOD PROGRAMS?

Steven Aftergood reports that DOD signed a directive last week allowing for Government Accountability Office audits of Special Access Programs.

[A] Department of Defense Directive issued last week explicitly allows for GAO access to highly classified special access programs, including intelligence programs, under certain conditions. The newly revised DoD Directive 5205.07 (pdf) on special access programs (SAPs) states that: “General [sic] Accountability Office (GAO) personnel shall be granted SAP access if: a. The Director, DoD SAPCO [SAP Central Office], concurs after consultation with the chair and ranking minority member of a defense or intelligence committee [and] b. The GAO nominee has the appropriate security clearance level.”

The issue of GAO oversight is one of the two issues over which Nancy Pelosi is holding up the intelligence reform bill. In theory, GAO oversight would make it harder for the President to sneak through entire programs via appropriations and harder for corrupt members of Congress to do what Duke Cunningham did—put through appropriations that benefit themselves.

But I’m less sanguine than Aftergood that this directive—as welcome as it is—will do the trick.

To a significant extent, considering the dominance of defense intelligence agencies within the intelligence community, one could say that it now has been so recognized. Only the details

remain to be negotiated.

After all, this gives both key members of Congress (the leadership of either an intelligence or defense committee) and the President (because the GAO nominee would require a security clearance—remember that Bush postponed oversight of his illegal wiretap program by denying members of the Office of Professional Responsibility security clearances) veto power over GAO oversight on a program by program basis. Furthermore, it's not clear that requiring the leadership of "a" committee to approve will do the trick, since many programs have been put through on defense appropriations without revealing them to the intelligence committees.

Finally, this follows a favorite Obama tactic: to negotiate changes Congress wants by implementing them in such a way that the Executive Branch retains the ability to reverse those changes. The whole point of GAO oversight would be to impose a check on the Executive. Whereas, done in bad faith, this could create nothing more than the illusion of a check on the Executive, one that the President might use to try to get Congress to wield on its efforts to impose real oversight.

So while this might bring more transparency and oversight to programs which all parties agree can withstand such oversight, I'm not sure it does much to the address the way in which separation of powers has been manipulated to conduct all sorts of mischief in taxpayers' names.