

C/ETZ



I've gone through this carefully and believe there's really nothing for Boss to comment on. However, I did check with his office. He won't be in until Sept. So let's just forward to DCI-



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MEMORANDUM FOR CASPAR W. WEINBERGER

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FROM: EDWIN MEESE III *EW*  
COUNSELLOR TO THE COUNSELLOR

SUBJECT: Final Draft of the Presidential Transition Report

Attached is final draft of the Presidential transition report for your review. It would be appreciated if you could provide any comments to me by 1 September 1982, so that we can proceed with the final printing.

You will receive a copy of the printed version as soon as it is completed.

Thank you.

Attachment

*W. P. S. 22 AUG 1982*



**TRANSITION OF THE PRESIDENT  
AND PRESIDENT-ELECT**

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## CHAPTER I INTRODUCTION

The concept of a report on the 1980-81 Presidential transition emerged from daily discussions of practical transition issues among representatives of both the incoming Reagan-Bush Administration and the outgoing Carter-Mondale Administration. In addressing countless major and minor decisions to be made, both transition staffs were impressed by the paucity of information describing prior transitions. Experiences, precedents, policies, and lessons from the past had never before been recorded and had to be acquired solely through informal personal contacts. They recognized that future transition efforts could benefit from a record of their experience in managing the orderly exchange of Presidential authority in 1981, and from the lessons and guidelines that participants of this transition have derived from months of work and collaboration.

Even before the transition was complete, the two transition Directors, Edwin Meese III for the Reagan team and Jack Watson, Jr., for the Carter team, agreed to collaborate on a project to leave a written record of the transition. The following report is the product of the agreement. A joint Carter-Reagan team met throughout the Spring of 1981 to exchange perceptions, review drafts, and distill from the mass of potentially recordable activity those precedents and guidelines that have the most relevance for the future. William Tucker, William Timmons, Jack Nugent, and Barbara Cherry, represented the Reagan team, with assistance from Ellen Annan, Timothy Ryan, and Frank Lilly. Harrison Wellford and Matthew Lawlor represented the outgoing Carter Administration on the joint team. Tucker was named to coordinate the project, and Nye Stevens edited the report. Although the focus of the report is on the 1980-81 experience, John Marsh, Richard Cheney and Jack Watson were consulted because of their involvement in prior transitions.

In the past two decades, the United States has had unusual transitions resulting from the assassination of a President (Kennedy-1963) and the resignation of a President (Nixon-1974). The discussion that follows is applicable much less to these abnormal occasions than to a transition brought about by the quadrennial Presidential election. It does not deal with planning for the Inaugural or the ceremonial events attending it.

The word "transition" is a broad term which evokes a period of time and change. As used in this report, it means the orderly and peaceful transfer of governmental authority in the most powerful and complex country in the world. It is a complicated and delicate blending of campaign personnel, friends of the President-elect, party leaders, transition personnel and members of the incoming and outgoing Administrations. The transition process is democracy's way of preserving continuity of government and the nation's ability to respond to domestic and international demands while power is changing hands.

While this report concentrates on processes of management and organization, it should not be forgotten that the attitudes of the outgoing President and incoming President-elect are key determinants of the success of the transition. The tone of their relations and the signals that they give their appointees and staffs are swiftly perceived throughout the government, and provide a model for countless transition encounters between incomers and outgoing at all levels. The incumbent still possesses all of the formal powers of office during the transition. If he insists on an amicable, cooperative, and constructive transition, his example will be followed nearly everywhere in Washington.

The President-elect must also understand that despite the enormous attention centered on his words and actions, he will have no formal, legal authority until January 20. Until that time, he and his supporters must be careful not to undermine the incumbent's ability to operate the government. He must act in a manner that preserves the machinery *and* the symbols of authority that he will soon inherit.

If either the outgoing or the incoming President is insensitive to these imperatives, the potential for conflict and confusion inherent in any transition may be unleashed with disruptive consequences.

## CHAPTER II HISTORY OF TRANSITION AND APPLICABLE LAW

The Twentieth Amendment to the Constitution, ratified in 1933, moved Inauguration Day forward from March 4 to January 20. Since then, the transition period has lasted from 71 to 79 days. While this time period has remained stable, the size and complexity of the transition job have grown steadily with the tremendous growth in Federal power and responsibilities in recent decades. Each new President in modern times has required a larger and more sophisticated transition organization than his predecessor.

In 1952, the incoming President Eisenhower commissioned a management consultant group to do a study of the government and determine who his key people should be. Personnel selection was the top priority and three confidants of the President — Lucius Clay, Herbert Brownell, and Sherman Adams — split responsibility for it. Eisenhower was comfortable with the concept of developing a strong team and delegating power over both major and minor decisions to its members.

In August 1960, Democratic nominee John Kennedy asked Clark Clifford to coordinate transition planning during the campaign. Clifford assembled a small planning staff and established liaison with an independent Brookings Institution transition project which was preparing issue papers for the still undetermined President-elect. After the election, Clifford continued to play his coordinating role, particularly with regard to appointments, and Theodore Sorenson established 29 issue groups to prepare specific policy advice for the President-elect.

While President Johnson did not need a complete transition in 1964, he did use the opportunity of his election to change Cabinet and other key appointees. President Johnson used outside confidants to help him pick several new Cabinet officers.

After election day 1968, President-elect Richard M. Nixon established his personal offices and maintained his senior staff at the Hotel Pierre in New York City. President Johnson assigned the President-elect generous space in the New Executive Office Building, and gradually operations were transferred there. President-elect Nixon's transition focused on White House offices, Inaugural preparation, developing a legislative program and congressional relationships, and Cabinet appointments. There was, however, no comprehensive and systematic study of the outgoing Administration's programs, policies, personnel and budgets. The President-elect had served 8 years as Vice President, and prior to that was a Senator and U.S. Representative. In addition, since many of his principal assistants and Cabinet appointees had previous Federal experience, the Nixon team did not feel the need for an in-depth study of the outgoing Administration.

The transition to President-elect Carter in 1976 was characterized by an advance in pre-election planning and formal organization. Carter took the unprecedented step of establishing a policy planning group separate from the campaign staff more than three months before the election. In late July 1976, soon after the Democratic Convention, Carter used \$150,000 from his campaign funds to set up a small staff of 10, headed by Jack Watson, to begin policy, budget and organizational planning and the building of an inventory of candidates for key posts in the new Administration he hoped to form. Several major legislative initiatives of his Presidency — such as civil service reform and airline deregulation — trace back to this pre-election planning group.

The planning group was organized around clusters representing the functional areas and issues confronting the government, such as national security, budget planning, and government organization and regulatory reform. These clusters formed the organizational model for the transition team after the 1976 election.



## ***A. Presidential Transition Act***

A key event in transition history was the passage in 1963 of the Presidential Transition Act (3 U.S.C. 102-Note), which recognized a national interest in the orderly transfer of executive power at the Inauguration of a new President. This Act fundamentally changed the nature of the transition operations, shifting the focus from outside government to "in-house" relationships formally bringing together the new Administration with the old.

The Act authorized the President-elect to incur expenses for the following services and facilities:

1. Suitable office space, supplies and equipment for the President-elect and Vice President-elect at locations designated by them;
2. Federal compensation of transition office staff at rates not to exceed grade GS-18. Any Federal employee could be detailed to the transition staff on a reimbursable basis at the same rate of compensation as his regular employment;
3. Payment for the services of experts or consultants, at a rate not to exceed \$100 per day;
4. Travel expenses and subsistence allowances;
5. Communication services;
6. Printing and binding, and
7. Postage.

Federal funds, administered and monitored by the General Services Administration, were authorized by the Act to be used by the incoming Administration from the day following the general election to the day of the Inauguration.

## ***B. History of Transition Funding***

Funding problems provided much of the impetus for passage of the Presidential Transition Act. Until 1964, the costs of the transition were financed by the political parties or from privately raised funds. The known costs of the Truman-Eisenhower transition in 1952-53 were in excess of \$200,000.

In 1960-61, President-elect Kennedy benefitted from the Eisenhower Administration's agreement to put two incoming staff members on the payroll of each department as of January 3, 1961, with ten permitted in both State and Defense. Yet this gesture did little to alleviate the Kennedy transition team's overall financial burden. Many costs of the transition were borne by President Kennedy's personal funds and his Senate office allowances and payroll. Many new appointees and advisors absorbed their own expenses, with considerable hardship in many cases. The departments granted office space to many prospective appointees, but supplementary funds had to be found for the many individuals required to handle mail, screen appointments, meet the press and generally assist the President-elect.

Because Kennedy felt it unfair to saddle families or the Democratic National Committee with the total bill, estimated in excess of \$350,000 during his transition, he urged congressional action to defray expenses for future Presidents-elect. He established the President's Commission on Campaign Costs, which in 1962 recommended a Federal subsidy to cover certain transition costs. The Presidential Transition Act of 1963, which established a fund of \$900,000 to be shared by incoming and outgoing administrations, resulted directly from the Commission's recommendations.

Because there was no change of party or President after the 1964 election, Vice President-elect Hubert Humphrey drew less than \$75,000 from the fund for staff salaries and expenses during his 1964-65 transition.

In 1968, for the first time, Federal funds were used for a change which involved both the Presidency and political party. Since the law did not specify allocation of these funds among the four individuals affected, President Johnson decided that \$75,000 each would be allowed the incoming and outgoing Vice President, and the balance would be divided \$375,000 each between the President-elect and the President.

The Republicans essentially combined the costs for President-elect Nixon and Vice President-elect Agnew and spent additional privately-raised funds of approximately \$1 million. Of this amount, \$500,000 was raised at a "Republican Victory Dinner" held in May 1969. The Act did permit the Nixon transition, however, to use government employees, office space, and equipment on a non-reimbursable basis.

In 1976, the 1963 Transition Act was amended (Public Law 94-499, 90 Stat. 2380) in order to address a number of limitations in the original statute. The amendments provided for:

1. Increasing the maximum amount authorized to be appropriated for each transition from \$900,000 to \$3 million. Of this amount, \$2 million was reserved for services and facilities to be provided to the President-elect and Vice President-elect, and \$1 million for services and facilities was to be provided to the outgoing President and Vice President.
2. Modifying the authority to detail government employees to either the incoming or outgoing Administrations by requiring that such detailees be employed only on a reimbursable basis.
3. Deleting the \$100 per diem limitation to be paid for experts and consultants, and providing for payments of up to the maximum amount applicable to the Executive branch of government.

In 1976-77, \$2 million was appropriated for the incoming Carter Administration and \$1 million was appropriated for the outgoing Ford Administration. Neither team, however, used the full amount allocated for transition. The Carter transition spent approximately \$1.7 million of the \$2 million allotted, and the Ford Administration spent a little less than \$700,000 of the \$1 million allotted.

## CHAPTER III

# PLANNING FOR THE TRANSITION

### *A. Outgoing Administration*

The funds appropriated for the outgoing Administration are used to supply the outgoing President, Vice President and staffs with the means to wind up the affairs of the outgoing President and Vice President. They can cover staff salaries, transportation, postage, telephone, telegraph, office supplies, furniture, printing, and commercial services. These funds are used primarily to assist personal transitions after departure from the White House, but do not cover moving expenses.

Systematic pre-election transition planning within the incumbent Administration occurs only when the incumbent President is not a candidate for re-election. In 1952, 1960, and 1968, Presidents Truman, Eisenhower, and Johnson, who were not seeking re-election, organized a transition staff in June or July. Planning was nearly completed by election day. In all three cases the Bureau of the Budget career staff was used to coordinate transition preparations in the agencies. Because of the early start, these activities did not conflict with the budget cycle.

When an incumbent President is seeking another term, transition planning waits until after the election, regardless of what the polls say. Anyone imprudent enough to raise the issue internally would be suspected of defeatism if not disloyalty. Some informal clandestine planning is conducted by career staff at OMB and in the agencies, but this work is not acknowledged by the President's political officers, even when they know it is going on. As a result, when an incumbent President is defeated, planning that should ideally take about three months is compressed into several weeks. Even after the returns are in, members of a defeated Administration will be reluctant to move energetically into transition planning. There is a tendency for White House staff immediately after the loss to become absorbed in the reassuring routines of administration, or the challenges of seeking new employment, and to put off focusing on the details of the transfer of authority.

A defeated incumbent President must resist this attitude and take firm action to show the government that he intends to exercise his authority until January 20. Failure to do so may lead to a dangerous breakdown in discipline which can cripple the President's ability to lead if a crisis develops at home or abroad. At the same time, he must realize the disincentives that exist within his Administration to focus on transition planning without delay, and use his personal authority and example to overcome them.

A lame duck President might look at his authority to govern in the transition period as if it were a large balloon with a slow leak. If he acts with dignity, foresight, and firmness immediately after his defeat, the leak will initially be small and the President will retain the loyalty and goodwill of most of his government, and of the Congress. But he must recognize that the balloon is ineluctably shrinking with each passing week. Therefore, he should try to schedule major decisions during transition in the first six weeks after the election. By the end of the year, he will have lost the attention of the permanent government and can accomplish very little.

### *B. Incoming Administration*

There is no disagreement today that the imperative need for continuity of government in a dangerous and rapidly changing world, overseen by a huge and vastly complicated government, makes it essential that transition planning and procedures be addressed with foresight and sophistication by those with positions of responsibility for the new Administration. It is recognized that the process must be institutionalized to a certain extent, but at the same time it must remain flexible enough to reflect and adapt to the individuality of each new Administration.

Although it is now accepted that some planning for taking over the government is expected of Presidential nominees before the election, it is nevertheless a matter requiring a certain modesty. It is not harmful for the inevitable pre-election transition planning effort to be acknowledged through press sources, but it should not be a matter of press priority or continuing news comment since there can be a backlash if it is perceived to be an overly presumptuous expectation of victory. Too much publicity may also distract campaign staff, who may fear that others are positioning themselves for positions of future power while they are still absorbed with winning the election.

This problem was somewhat evident in the Carter campaign of 1976. The small Watson transition team was intentionally segregated from the campaign staff on the theory that otherwise longer-term planning would be overwhelmed by short-term crises. The lack of contact between Watson's policy planning staff and Hamilton Jordan's campaign staff, while keeping the planners from being pulled into the vortex of the campaign, ultimately led to misunderstandings between the two groups. The attempts to keep a low profile for the planning group were frustrated by intense press interest and speculation within the campaign staff about what the Watson group was up to. These tensions surfaced after the election when attempts were made to integrate the two staffs.

### *C. Transition Roles*

Some practices and constraints have become so commonplace that they are likely to apply to any candidate for the Presidency, while others are matters of choice and style. This section deals with the former.

The central *raison d'etre* of any transition organization after an election is to prepare the incoming President and his principal officers for the new responsibilities which they will assume when officially sworn into office. From this basic purpose arise three fundamental demands. The incoming transition team must provide the principals of the new Administration with comprehensive information on (1) the organization and basic responsibilities of each unit of the Federal establishment; (2) variable resources within each unit such as budget, legislative authorities and initiatives, appointments, and grants or contracts; and (3) policy questions that will require or present opportunities for decision within the next 30, 60 or 100 days after the Inauguration.

#### **1. BASIC INFORMATION COLLECTION**

The earliest and most straightforward task is to provide the President-elect and his department and agency heads with information on the organization, functions, responsibilities and constraints of their respective offices. Compiling this information is basically a collection and evaluation process, but it must be done quickly and accurately. The information collected is the data base from which other activities, such as personnel selection, derive. It must be detailed enough to provide an up-to-date picture of the current situation in each office, including the talent and tools available to incoming appointees to accomplish the tasks of the office.

The information collected on the White House, departments and agencies is used to provide a smooth and speedy transition into office of all appointees of the new Administration. Its ultimate purpose is to try to reduce the time needed by the new appointees to gain a complete picture of the office which they will be administering, and to minimize the disruptions that occur whenever top management is changed. Sweeping changes may, in fact, be desirable, but they should be brought about by deliberate choice, rather than as a result of initial ignorance or confusion at the top.

Since the background of the designees will not be known at the time the transition begins collecting this information, basic as well as more sophisticated data must be compiled on each office. When the department or agency head is named, the information which has been collected can then be tailored

to the levels of prior knowledge and sophistication which the new head brings to the office. It is inevitable, therefore, that considerably more information will be collected than will actually be put to use.

## 2. MONITORING RESOURCE COMMITMENTS

A second role which the transition must accomplish is to inform the President-elect and his department and agency heads on current budgetary, legislative, personnel and other commitments that are at issue during the transition period. Unlike basic organization, these are matters of policy and discretion which are at least potentially subject to the influence of the new Administration, though they are still in the hands of the outgoing team. The transition must be alert to the implications of actions taken in the final weeks of an Administration. In some cases, it will find that the purpose, or at least the effect, of the actions is to restrict the options of the new President and his appointees.

The outgoing Administration's budget is a key indicator in this respect. It must be evaluated to determine where areas of difference between old and new priorities are likely to exist. Budget information must be compiled in a fashion that will enable the designee to make some initial determinations on both the desirability and the feasibility of changes in the budget recommendations that will already be before the Congress when the new Administration takes office.

The transition team must also prepare to deal with pressing, current issues which require discussion with the outgoing Administration. It is likely, for instance, that the outgoing Administration will have deferred some tough decisions simply because it will lack the ability to implement them. These issues may be brought to the President-elect's attention by the outgoing Administration. In other cases, the staff's responsibility is preemptive, to identify potentially troublesome problems. In both cases, the transition must gather the information necessary to evaluate the issues and to recommend solutions that are sensitive to the timing of formal transfer of power. On occasion, this may require a mutual understanding as to which Administration will deal with the issue.

In the legislative area, the transition has a dual role. The first is to provide, before the Inauguration, a recognized point of contact with the Congress so that the President-elect and his nominees have an open channel of communication. The Congress will have enormous interest in the new Administration's appointees and intentions, and will not hesitate to make lasting judgments on the basis of how the initial relationships are established and carried out. The second legislative role is to provide the new Administration with relevant information on forthcoming program expirations and other legislative business, such as confirmation hearings, which will require early congressional action.

Personnel matters can also be broken down into two basic responsibilities. The first is to organize the President-elect's pre-Inauguration activities related to identifying and recruiting individuals to fill the key vacancies in government. The transition then assembles job descriptions, determines the professional qualifications needed for key appointments, and then identifies and recommends appropriate people to fill these jobs. The second standard personnel responsibility is to monitor personnel actions at the "career" level of government to protect against potentially unjustified conversions from political to permanent jobs during the transition period. The incoming Administration must be in a position, based on the information it has collected, to detect these moves early so that abuses can be prevented, or at least minimized.

Just as budget and personnel actions can constrict the new Administration's ability to change the policy and direction of government, so may actions taken by the outgoing Administration with regard to grants, contracts, regulations, legal settlements and other similar discretionary matters. The transition team collects information regarding grants and contract awards, for example, and analyzes them to determine if they fit into routine or politically motivated categories. There are legal, congressional, bureaucratic and publicity channels open to contest or delay some of these actions, but

they cannot be brought into play unless the transition office has performed its monitoring task well. (This subject is discussed further in the Recommendations, Section X, Issues No. 9 and No. 12.)

### 3. POLICY ISSUE ANALYSIS

The third general role of the President-elect's transition office is to inform officers of the new Administration of national policy issues which will require its attention during the first several months in office. The incoming team must, during the transition period, collect the necessary background and other data on all issues which offer opportunities for or will require early action. This information can then be used to prevent unpleasant surprises, seek congressional help to forestall actions which it may want to change later, and prepare remedial actions to take after the Inauguration in cases where there is some urgency.

In addition to these defensive actions, the transition office must also prepare a list of positive actions which the incoming Administration may want to take during the early weeks of its tenure to put its own distinctive stamp on the government. This requires synthesizing knowledge gained on current policies and programs with the goals and policies of the President-elect into a format of actions that will blend the old with the new.

The performance of the three roles above, and the activities of the various divisions within the President-elect's transition office, must be carefully coordinated. departmental transition teams must work with the personnel office on job descriptions and other personnel matters. The policy office, blending the information collected by the transition teams and independent advisory groups, must sort through the issues, bring them to the attention of the senior staff, and coordinate the development of preliminary policy for the first 30, 60 and 100 days of the new Administration. Congressional Affairs must relate well to all divisions of the transition office, and there are legal questions and ramifications involved in transition activities from removal of incumbent appointees to contracting for office space. While individual tasks and responsibilities can be distinguished, coordination of them is a constant challenge.

## CHAPTER IV ORGANIZATION AND CONDUCT OF THE OUTGOING TRANSITION

Despite the likelihood that little pre-election transition planning will have been conducted by a defeated Administration, the post-election challenge for the incumbent team is not as great as it is for the incoming transition forces. Aside from the obvious transfer of power, this results from the fact that the incumbent group is already organized, though not specifically for transition tasks, and from the fact that it includes many individuals, in both the political and senior career ranks, who have had direct experience in at least one previous transition. Therefore, patterns of precedent and behavior present less variation than do transition activities among incoming Administration.

Funds from the Transition Act are used by the outgoing President and Vice President only after they have left office. The outgoing Ford transition in 1977 spent only \$687,373 of the \$1 million appropriated. Half of this was for staff salaries, and most of the rest went for transportation, office equipment, communication facilities and printing. (A detailed accounting is included in Appendix A.)

The outgoing Carter Administration spent \$861,526 in Transition Act funds between January 20, 1981 and September 30, 1981. Of this total, \$672,659 was allocated to President Carter's account, and \$188,867 was obligated on behalf of Vice President Mondale (Appendix A).

### *A. The 1976-77 Transition From Ford to Carter*

In both 1968 and 1976, the incumbent Administrations hosted a joint reception of both transition teams in the White House Mess. An informal meeting early in the transition period is a useful supplement to more formal introduction of the President-elect's transition team, which is often held in early November.

Richard Cheney and John Marsh hosted a meeting of the incoming and outgoing transition leadership in November of 1976 in the Roosevelt Room. The meeting was chaired by Marsh. The Carter director, Jack Watson, outlined the information needs for their reports, explained generally their transition concepts, requested that the outgoing personnel deal only with authorized transition individuals and invited questions on the process.

Management of the outgoing Administration's transition team has traditionally been assigned to a senior White House advisor — either the Chief of Staff or someone just below him — who also has direct access to the President. In 1976, President Ford and his Chief of Staff, Richard Cheney, appointed John Marsh as overall transition coordinator.

In the first Cabinet meeting after the 1976 election, President Ford set forth his transition guidelines to members of his Cabinet. He advised the Cabinet that their first obligation was to carry out the tasks of government until January 20. As part of the responsibility, and to the maximum extent possible, members of the Cabinet and their subordinates were to assist the incoming Administration in every way they could to achieve an orderly transfer of power to President-elect Carter. President Ford reiterated this statement from time to time, and created a transition team reporting to Marsh. This included five other White House officials and a designated transition officer in every department and major independent agency of the Executive Branch.

At the request of the incoming Carter Administration, each of the departments and agencies was asked to prepare a document on its budget, personnel, programs, policy issues, and future directions.

These papers set out short-range goals, long-range policy changes under consideration, the status of necessary legislation and any pressing problems demanding immediate attention by the leadership of the department or agency. Approximately 22 departments and agencies prepared these transition documents, including the White House and Office of Management and Budget.

A special problem in transitions is to prevent unauthorized persons from acting without authority and outside of the transition operation chain of command. They can create controversy, impede operations, and confuse the bureaucracy, raising questions and doubts about who speaks for the incoming Administration. In 1976, the Carter transition leadership certified a list of Carter transition personnel for each department and agency. The Ford Administration Chief of Transition then instructed the departments and agencies to deal only with authorized Carter personnel on matters relating to the operation of the organization. Ford transition officers were instructed to report any breach of procedure through Marsh to the Carter Transition Chief who responded swiftly to prevent recurrences.

### ***B. The 1980-81 Transition From Carter to Reagan***

In 1980, President Carter designated Jack Watson, his Chief of Staff, as Transition Director the day after the election. Watson was instructed to advise all agency heads that they were to report to the President on transition matters through Watson. Watson set up a small transition staff led by Al McDonald (White House and EOP coordinator) and Harrison Wellford (Executive Branch coordinator). Wellford also acted as liaison to the Vice President on transition issues, particularly the allocation of the \$1 million fund provided by the Transition Act to be divided between the outgoing President and the Vice President.

In a conference call and memorandum to the Cabinet and head of major agencies on November 7, Watson asked that transition officers be appointed in each agency and expressed the President's wish that his appointees be helpful and courteous in their dealings with the Reagan team (Appendix B). This was followed up on November 10 with a memorandum to clarify these instructions. (Appendix C).

On November 13, following a precedent set by Marsh in 1976, Watson and Edwin Meese convened a meeting in the Family Theater of the White House at which Watson introduced the leaders of the Reagan transition team to the President's transition officers. Watson outlined the transition concept, explained information requirements, requested that Administration personnel deal only with certified transition representatives, and responded to questions on the process. As the first official contact between the outgoing and incoming teams, this meeting alleviated tensions and established a spirit of cooperation. In a further gesture of cooperation, the two transition teams issued a joint press release describing the events of the day and announcing the official transition leadership for both teams.

Following the initial meeting, the organization of the Carter transition team was refined. Transition officers were named in sub-Cabinet agencies not included in the original round. Independent regulatory commissions, selected for transition by the President-elect, were approached and asked if they wished to participate in the transition on a voluntary basis. Before long, the outgoing transition organization was shaped to correspond with the functionally organized management structure of the incoming department and agency transition teams. Cluster group heads, most of whom were OMB career employees, were appointed to improve coordination and communication. The fact that the incoming and outgoing transition teams at the department and agency level were organized substantially in parallel improved communication and permitted better policing of unauthorized contacts.

Periodic meetings were conducted by Wellford and Matthew Lawlor for the Executive Branch transition officers. Bi-weekly status reports were required for all Executive branch transition officers, but these reports proved to be a poor substitute for the more immediate and confidential communication link between the Carter Administration group heads and the agency transition officers.



Each agency and department was asked to prepare a briefing book describing key agency personnel, major functions, and pending issues. These books were designed to give the President-elect's transition teams an initial roadmap to agency structure and process, not exhaustive commentaries on agency life.

Watson asked Stuart Eizenstat, the President's domestic policy advisor, to prepare an inventory of all major forthcoming issues and decisions in order to give the President an opportunity to make key decisions early in the transition period. Eizenstat was also asked to alert the President to decisions which might require some consultation with the President-elect. Among these pending issues were negotiations on the American hostages in Iran, a Federal employee salary increase, the status of the Synthetic Fuels Corporation, and the second phase of draft registration scheduled to commence on January 5, 1981. The President used this list to help prepare his agenda for his first meeting with the President-elect on November 20.

In many respects, transition assignments were incorporated into the regular White House division of responsibility. Thus the Counsel's Office handled legal issues related to transition, with help from Susan Connor of OMB, and transition press relations remained the responsibility of Press Secretary Jody Powell. The National Security Council staff consulted with Edwin Meese in preparing a schedule of security briefings for the President-elect and key staff. Security clearances, Executive Office of the President (EOP) familiarization papers, and other administrative matters were coordinated by the White House Staff Director's office.

One of the most important responsibilities of the outgoing transition team is ministering to the needs, anxieties, and relocation concerns of the President's official family. Literally thousands of requests are made to say farewell to the President, to have photographs and other mementos signed, and to organize farewell parties and ceremonies for Presidential appointees. The sensitivity with which these duties are carried out has a major influence on the morale and teamwork of the outgoing staff during the transition period. Among the more important tasks are:

- a. organizing calls and other expressions of gratitude by President and White House staff to campaign staff and political officials around the nation;
- b. making arrangements for the collection and storage of Presidential papers and issuing guidelines to Presidential appointees on how they should handle Presidential memoranda in their files. The President's White House staff director, Al McDonald, developed these guidelines for the Carter White House after conferring with the President's counsel, Lloyd Cutler;
- c. establishing a job referral process to assist outgoing appointees in locating positions in the private sector. Michael Rowney, McDonald's deputy, arranged briefings by executive search firms and worked with Arnie Miller, Director of the President's Personnel Office, to set up a job referral staff;
- d. responding to questions about health insurance, pension contribution reimbursement, eligibility for unemployment insurance, actual departure dates (which varied from individual to individual and agency to agency), and resignation policy (see Removal of Incumbent Officials, Sec. VI (e)(6)).

### ***C. Personnel Policies for the Outgoing Administration***

The outgoing Administration retains formal personnel appointment powers during the transition. This is such a potentially divisive issue between the two transition teams that the way it was handled in 1980-81 deserves special discussion.

Every Civil Service position that is filled during the transition period is one less position available to be filled by the incoming Administration. Every position filled is potentially a point of future obstruction for the new Administration, and is therefore suspect.

In order to clarify the Administration's hiring policies for senior personnel and to protect the integrity of the Carter-initiated Senior Executive Service (SES), Jack Watson met soon after the election with the Director of the Office of Personnel Management (OPM) to develop hiring guidelines for the transition period. The resulting guidelines, issued on November 12 by Watson, but endorsed by and delegated to OPM, are attached. (Appendix D.) In essence, they permitted normal hiring, transfers, and status conversions to continue, but required much stricter screening and higher approval levels within the agencies. All SES appointments were to be given special review by the department or agency heads, and in practice only appointments already in OPM pipeline were considered. Any conversions of non-career SES personnel to career status had to be reported to the White House. OPM tightened its own SES appointments procedures by requiring the personal approval of the Director. The promulgation of Watson's personnel guidelines was followed up with a meeting of all agency personnel officers. Key Reagan transition officers also attended the meeting.

The practical effectiveness of the interim hiring guidelines has not been established. Initial reports suggest that the guidelines were largely successful in ensuring that the government continue to function as normal in meeting its personnel needs, even though OPM approval processes slowed down markedly. Anecdotal evidence suggests, however, that some agencies and their transition teams were confused about application of the policy. Certainly there was variation in interpretation. Some agencies treated guidelines as an outright freeze, but in other cases members of the Reagan transition team suspected that an outright hiring binge was going on in anticipation of a post-election freeze. Several cases of apparent "burrowing" of Carter appointees into secure career positions were also reported through established channels between the transition teams. They were promptly investigated and dealt with individually by the outgoing transition team.

The 1980-81 experience was not markedly different from that of past transitions. No hard evidence exists that any recent outgoing Administration has systematically abused its lame duck hiring powers, but every incoming team harbors such suspicions and can cite individual cases of abuse. It is a fact, however, that no outgoing transition team can fully prevent abuse. It has diminished control over OPM, and its power to control career personnel officers, who are anticipating the arrival of a new set of masters, is waning in the transition period.

Because this issue has the potential to damage the spirit of cooperation between the transition teams, future outgoing Administrations might be prudent to consider a temporary hiring freeze, though no outgoing President has ever imposed one. In any case, a hiring freeze imposed by the new Administration after it takes office has become standard operating procedure. (This subject is treated further in the Recommendations section, Issue No. 5.)

## CHAPTER V ORGANIZATION OF THE INCOMING TRANSITION

Transitions differ in their styles, priorities and organizational arrangements. The Reagan transition strategy revolved around five initiatives. These were to:

- a. Provide a period of adjustment following the campaign during which the President-elect would be provided with the knowledge and resources he would need upon assuming office.
- b. Wind up the campaign apparatus.
- c. Select people to fill key positions in the new Administration.
- d. Plan for the first 100 days of the Administration, so that the New Administration could implement its policies and programs as soon as possible.
- e. Establish working relationships with groups outside the Administration which could be critical to its success.

The transition made a special effort to involve campaign supporters in forming the new Administration. This gave campaign supporters a unique opportunity to assist in establishing the direction and policies of the new Administration, as well as the opportunity to position themselves, if they so desired, to be candidates for key Administration jobs.

The use of campaign supporters was also integral to executing the third leg of the Reagan transition plan. A personnel selection advisory committee dubbed the "kitchen cabinet" by the media was formed to advise the President-elect on his top personnel appointments. These long-time Reagan friends and advisers served to screen, review, and recommend individuals for Cabinet appointments. The group served the President-elect well in surfacing several candidates who were ultimately appointed and in sharpening the debate as to which candidates would most effectively serve the President-elect.

To develop an action plan for the first 100 days of the Administration, Ed Meese and William Timmons devised an organization which, in effect, separated transition logistics from transition policy development. Transition logistics were organized around each department and agency, as well as the White House itself, with a team delegated to each unit. These teams fed information into a separate policy development operation. By grouping departments and agencies into broad clusters based on the agencies' functions, overlapping agency issues could be addressed comprehensively. (See Appendix E for an organization chart.) This "functional" organization also served as a way to synthesize the variety of viewpoints and alternatives emerging from the teams and advisory groups while screening out relatively minor issues or problems.

Out of the functionally organized transition clusters came the ideas and policy options for planning the first 100 days of the Administration. Actual strategy development and planning was then assumed by the senior transition staff, including those having transition responsibility for the budget, personnel, and foreign and domestic policy. Information flows and planning for the first 100 days therefore followed a matrix pattern, with department and agency transition teams serving as the primary contact for information collecting and analysis. Functionally organized issue cluster heads then worked with senior staff responsible for budget, personnel, foreign and domestic policy in order to flesh out the details and provide an overall perspective for the first 100 days.

Finally, in order to address the last element of the transition plan, special transition offices were organized to develop relationships with groups who would remain outside the Administration, but who were critical to its success. A special effort was made to work closely with the press, Congress, State and local government officials, and other interest groups which supported Reagan's candidacy and election. Time was also scheduled late in the transition for the President-elect to meet with these key groups so as to begin establishing personal relationships. This led to pre-Inaugural visits by the President-elect to Capitol Hill and the Supreme Court. Meetings were also arranged, when the President-elect was in Washington, with District of Columbia Mayor Barry and influential Washingtonians.

Since the institutional power and authority of the Presidency is not assumed until Inauguration, the President-elect had to restrict his comments to general and conceptual plans for his new Administration. The press office had to walk a fine line between toning down newsworthy items and trying to maintain the momentum and public support generated by the election victory. In this respect, the Cabinet selection process helped provide some of the drama needed to keep the President-elect in the public's eye.

## CHAPTER VI

# THE REAGAN TRANSITION EXPERIENCE

The purpose of this section is to describe the experience of President-elect Reagan's transition organization in addressing the central problems involved in establishing a new Administration. As emphasized in the previous section, there is nothing definitive in the way the Office of the President-elect organized itself to address these problems. Its activities do conveniently break down into nine broad categories that are useful for descriptive purposes, even though they blur distinctions of the organizational patterns used in this particular transition.

A conscious effort has been made in the material that follows to depersonalize what in the end was a highly personal and individualistic effort. There is no way to be inclusive or even consistently accurate in describing individual involvement or contributions in the nine areas of activity covered. Therefore, to the extent consistent with clarity, activities are described without extensive reference to the individuals who carried them out. Furthermore, since the Federal Government's organizational structure is nearly as fluid as its leadership, references to specific agencies and units are also minimized since they may bear little relationship to the organization incoming transitions will encounter in future years.

### *A. The Role of Transition Teams in the Departments*

#### 1. ORGANIZATION AND CHARACTERISTICS

The Office of Executive Branch Management (OEBM), headed by William Timmons, assumed responsibility for making an in-depth assessment of the policy, personnel, budgetary and legislative situations and problems within each of the major units of the Federal Government. Making up a complete list of all distinct government agencies and other units was a major challenge in itself for the transition, just as it had been for the Carter forces in 1976. In 1980-81, 13 Cabinet departments and about 60 agencies, commissions, boards, banks and government corporations were selected for individual attention by the transition teams.

For organizational purposes, these 73 discrete units of government were divided into five subject or cluster groupings: Economic Affairs, National Security, Resources and Development, Human Services, and Legal and Administrative agencies (Appendix F). Each grouping was headed by a Director. Individual transition teams were assembled to cover each department and agency. Each was headed by a team leader and ranged in size from 3 to 20 professional staff members depending on the size and scope of the department or agency. These professionals were in turn divided into four areas of responsibility: policy and programs, personnel, budget, and legislation. An attached chart shows a typical team organization (Appendix G). Ultimately, approximately 650 persons, most of them \$1 per year volunteers, had active assignments on the department and agency transition teams. Each team member was given a copy of a letter from Timmons, dated November 26, setting out certain broad guidelines (Appendix H).

The transition team members were selected, in part, on the basis of their familiarity with the workings of the Federal Government. Most had gained knowledge of the substantive areas to which they were assigned through past service in that part of the government, or through private sector jobs which kept them current in the field in which their team was working. Many had been involved in policy

analysis for the Reagan political campaign. Some team members were on congressional staffs, and had to be assigned, as discussed later, with a sensitivity to potential separation of powers conflicts.

## 2. INTRODUCTION TO DEPARTMENTS

Once each transition team was organized, it established formal contact with its assigned department or agency. The Reagan transition teams felt it was important that the first call be made on the department or agency head. This initial meeting was requested through the counterpart transition officer in that department or agency of the outgoing Administration, who participated with the incoming transition team in the meeting. The meetings were not large; on the incoming Administration's side, they were usually limited to the team leader and a deputy.

The first visit was in some cases merely a courtesy call, to ensure the cooperation of the department, followed by at least one in-depth meeting scheduled soon thereafter. The President-elect may also choose to meet with certain Cabinet officers of the outgoing Administration to obtain their views on their departments, as President-elect Carter did in 1976-77.

The first substantive meetings with department officials in 1980-81 dealt with the general concept for transition, the number of people who would be working in the department or agency, and the inquiries as to what type of support was available through the department or agency. The incumbent transition officer was given the incoming team members' names and asked to recognize only those persons as official transition representatives. (Some campaign workers, it became apparent, had erroneously assumed they would continue to work in their campaign areas during the transition.)

Contact with the transition teams by transition personnel from other areas was channeled through the five group directors. This prevented the transition teams and their departments from becoming overloaded with unnecessary and potentially conflicting requests for actions and information.

The departmental bureaucracy can be either helpful or harmful to an incoming transition team. They can supply an enormous amount of information on their respective departments and their programs, and efforts to gain their confidence and cooperation can have substantial payoffs. The inevitable tendency of some incoming Administration personnel is to associate the career bureaucracy with the policies of the past Administration. This attitude of initial suspicion may cause them to benefit less than they could from the information that the outgoing Administration and the career staff could supply to them.

## 3. COLLECTION OF INFORMATION

Transition teams were given detailed instructions on information that was to be collected on department operations to include in the teams' reports. The teams were asked to prepare the reports based on information they requested from the departments, in contrast to the 1976 pattern where the departments themselves collected and packaged the information. The full instructions are included in Appendix I.

The budget members of the teams were asked to collect a listing of each authorized program and funds available to carry it out, internal operating budgets broken down by major category for FY 1980 and 1981, and a listing of each major contract loan, grant, guarantee or other major purchase, lease or procurement action that was pending November 1, 1980. Details were requested for each item listed, including the proposed recipient, the product or service and the time frame, as well as any action that had been taken after election day on pending application or proposals.

The policy and program section's responsibility was to list all programs under jurisdiction of the organization, including citation of authority, assignment of administrative responsibility, and date of expiration of authorization when applicable.

Also requested was a listing of all regulatory type actions or amendments that the organization anticipated promulgating between November 1, 1980, and June 30, 1981. However, caution was taken not to interfere with the regulatory mechanism or with specific enforcement of regulations.

Legislative information included a listing by number, title, sponsor, purpose and status of each bill or other legislative proposal that the organization either took an official position on, or testified on, during the 96th Congress.

Complete information was also requested on all litigation in which the organization was involved, all pending environmental impact statements, reports, and executive orders within the department's jurisdiction which were contemplated or scheduled to be issued between November 1, 1980, and June 30, 1981.

The personnel part of the transition team sought comprehensive information on both filled and vacant positions at the Presidential appointment, Schedule "C" and SES levels, including biographical information. Also covered was anticipated hiring during the transition period, details of consulting contracts with firms or individuals, histories of employment levels of sub-units in each of the last four years, retirement and separation rates, and membership on all advisory committees of the department or agency.

It was recognized from the outset that the volume of this information would be formidable. Since little was known about the knowledge level or the priorities of the new agency heads at the time information collection began, it would have been impractical to be more discriminating at this stage. The effort was designed to encompass all the information that appointees *might* want about the organizations they were assuming responsibility for, leaving the inevitable selecting and narrowing down decisions for later.

#### 4. TIMING, FORMAT, AND DISTRIBUTION

Before the teams were dispatched to their agencies, they had clear and uniform instructions about how they were to report their findings. Appendix J sets forth the schedule and general format for the reports. The initial report was due by Monday, November 24, the interim report on or before December 8, and the final report by December 22, 1980. Each report was to be placed in a color-coded, looseleaf notebook, with clear instructions as to its format, distribution and confidentiality (Appendix I).

Each successive report was to be organized along the same outline, though each would be progressively refined. The reports contained an introduction that highlighted the most important decisions and problems. This was followed by sections for each of the functional areas covered by the transition team: policy and programs, personnel, budget, and legislation. Also included was a section on miscellaneous items like organization, regulations, and litigation. Each report concluded with the transition team's recommendations.

The initial November 24 deadline gave most teams only slightly over two weeks for preparation, since not all the teams were completely operational during the week immediately following the election. This initial report was envisaged partly as a test run, used to gauge the level of information obtainable from the departments and agencies, and also to provide a measure of the competence of each team. It was used inside the transition headquarters by other offices, such as policy and personnel, to determine if the information collection effort was likely to correspond to their needs. Supplementary instructions were issued to the teams after the first reports had been evaluated (Appendix K).

Since most of the operational details had been included in the initial report, the interim December 8 report placed additional emphasis on the two key areas of budget and personnel. Headquarters pressed for making the interim team reports from the departments as complete as possible, in order to have the interim report ready when the first members of the Cabinet were announced. This was a particularly difficult schedule for many teams, since it accelerated the schedule for considering and writing the recommendations section.

The final report was due on December 22. It was this report which was used by the Cabinet designees since many of them had been selected by this time.

A request was made that each section of the final report not exceed ten pages. Although this was rarely followed in practice. Four copies (instead of the three originally contemplated) were prepared and placed in color-coded binders. Distribution was carefully controlled and limited to:

COPY #1 President-elect and Vice President-elect.

COPY #2 The team leader, who would later turn it over to the designated new agency head.

COPY #3 The group director and co-director supervising the transition team.

COPY #4 The Office of Policy Coordination.

Confidentiality was emphasized for several reasons. It contributed to candor. It protected the new Administration's options in case it decided not to follow the report's recommendations. In addition, many of the issues required additional study before the new Administration would be ready to announce public decisions.

A number of private organizations, not affiliated with the transition, prepared and released their own studies and recommendations to the new Administration. Frequently their reports were characterized by the media as transition documents, resulting in considerable confusion.

## 5. RELATIONSHIP BETWEEN CABINET DESIGNEES AND TRANSITION TEAM

The relationship of the transition teams to the Cabinet-designee was designed to be two-fold. First, the team's immediate and central responsibility was to collect material and information for the designee. Second, in the event that the appointed official needed or desired its help, it was to be prepared to act as his initial staff during the transition period.

Transition team personnel were not, however, promised any positions in the new Administration as a direct result of their work during the transition. This was made clear for several reasons, the most obvious being that the person eventually chosen to head the department or agency had nothing to do with the selection of the transition teams. In early November, when transition team members were selected, no Cabinet or other agency choices had been announced by the President. Each team member, therefore, was notified in advance that once the final report was finished, his or her principal task was completed.

Routinely, when the department or agency head was named, he took over the leadership of the transition team. He was thus able to choose between blending his own initial staff with the team structure, relying wholly on the established transition team, or releasing the entire team on December 22.

The incoming designee, in most cases, wanted to bring in some people of his or her own. This required close coordination with the various offices of the transition. In particular, the Personnel



Office required early consultation because of its overall responsibility for recruiting qualified people to fill government posts who shared the Administration's political thrust. This coordination also helped prevent duplicative hiring efforts.

It is important to note that the schedule for the transition team reports was established to coincide with the naming of Cabinet-designees. The purpose of the interim report was, in part, to have a semi-final report ready if the Cabinet-designees were named early. The December 22, 1980 date for the final report was set with two purposes in mind. First, it was by this date that most of the Cabinet-designees were expected to have been named and to be able to put the reports to immediate use. The second purpose was to provide a date for release of the transition team members, unless they were specifically asked to stay on by the Cabinet-designee. This gave individual Cabinet designees discretion in a potentially delicate matter. In some cases, the teams were dismissed. In other cases, all or part of the teams were retained to help the designee.

In all cases, however, the transition teams personally briefed Cabinet designees and agency heads selected before Inauguration. In cases where no Reagan appointee was named prior to January 20, 1981, a small number from each team, sometimes only the team leader, were kept on following the completion of the reports to monitor the situation.

## 6. PLACING TRANSITION STAFF ON AGENCY PAYROLL

As a general rule, staff from the incoming transition team is not put on the agency payroll during the transition period. The \$2 million transition budget for the President-elect is supposed to cover all salary expenses for transition personnel.

There have been a few cases, however, where selected transition staff members have been placed on agency payrolls before January 20. By making such staff members government officials, the incoming Administration can have earlier access to personnel and policy information. As government officials, they are clearly subject to ethics, secrecy and privacy laws. There are risks to the practice, however. The eventual appointee may not want to keep the staff member so placed. The privileged status of the designee's staff in an agency might draw them into a policy role prematurely. Conversely, the official presence of such staff may undermine the authority of the outgoing Administration. Finally, there is the possibility that the designated head will fail to gain Senate confirmation, leaving his chosen staff in peculiar limbo. (This subject is discussed further in the Recommendations, Section X, Issue No. 13.)

## 7. THE SPECIAL CASE OF INDEPENDENT REGULATORY COMMISSIONS

The role of the independent regulatory agencies and commissions during a transition is a potential source of controversy between the Congress, the President-elect, and the outgoing President. Special guidelines should be established for the incoming transition that preserve and protect the agencies, special status.

In 1980, there were 19 independent regulatory commissions (Appendix L). The outgoing Carter Administration initially did not include the independent regulatory commissions in its transition instructions. Transition officers were not designated in those agencies, and they were not required to make biweekly reports on transition activities through Administration channels. This hands-off policy derived from the fixed-term, multiple membership status of the commissions, their special relationship to Congress, and the absence of a direct reporting relationship to the President as part of the Executive Branch. The incoming Reagan Administration, on the other hand, tended to treat the independents as similar to Executive Branch units for transition purposes. They felt that both new budget and regulatory reform initiatives required them to review carefully the activities of the independents without delay.

Some of the incumbent officials in the independent commissions disagreed with the Reagan Transition Group position. For example, when the Reagan transition team first appeared at the Federal Communications Commission, it was politely told that it had no business being there. Eventually, an agreement was worked out that allowed the transition team the access it needed to prepare its report.

Others, while equally concerned about separation of powers principles, opened their doors. The Consumer Product Safety Commission, for instance, felt threatened by the defeat of many of its Congressional supporters in the election, especially since its organic legislation was up for renewal early in 1981. They provided space, secretarial support, and a relatively comprehensive view of the Commission's operations.

A restrained but cooperative approach prevailed generally in the commissions. In most cases, members of the transition team were provided with office space and allowed access to documents to the same extent that a member of the public would be. In other commissions, the transition teams were required to submit formal requests for briefings, information or access to personnel records to the heads of the commission, who would then direct the appropriate person in the agency to respond to the request.

Practically speaking, however, access of the President-elect's team to the independent commissions can ultimately turn on the perception of relative political influence between the President-elect and the commission's supporters on the Hill. The outgoing Administration can also play the role of arbitrator, if asked. For example, after the Carter-Reagan transition leaders had their initial meeting with transition officers from the Executive agencies, some of the independent regulatory agencies decided that they too wanted to be informed about transition planning. Responding to these requests, the Carter transition team convened a meeting at OMB between representatives of these agencies and the regulatory policy specialists on the Reagan team. Attendance was voluntary. At this meeting, there was discussion of such issues as access to information, limits on providing space and services to the Reagan team, and concern about potential conflicts of interest, as well as a thorough explanation of conflict of interests guidelines established by the Reagan transition team. The Carter White House advised the independent commissions to be cooperative and to provide only information to the Reagan team which would be subject to public disclosure, but stayed out of direct negotiations between the commissions and the Reagan transition.

Reflecting on the transition experiences of 1976 and 1980, many regulatory agency officials believe that standards need to be developed to provide guidance for the commissions during transition. Most questions and policies were handled in an *ad hoc* manner by the commissions in 1980. Some independent commission officials feel isolated during the transition. They are not under the protection of the outgoing President, and congressional sponsors may be equally remote when Congress is not in session, as is usually the case during transition. Many also feel vulnerable in dealing with transition teams that include representatives from firms regulated by the agency, even when the teams are guided by strict conflict of interest standards. Specific areas where standards have been suggested are: access of transition teams to non-public information, especially information about pending adjudication or enforcement action; providing services to transition teams; and access to agency staff with reference to on-going proceedings. (This subject is discussed further in the Recommendations, Section X, Issues No. 3 and 4.)

## ***B. National Policy and Budget***

The two greatest opportunities for change arising from an election are in the Federal government's policy direction and its top layer of personnel. These two areas, policy and personnel, therefore present the major transition planning challenges, and work should prudently begin on them well before the election if the transition is to be successful.

In April of 1980, a series of Policy Task Forces were established under the direction of Darrell Trent. There were 24 such tasks forces, and eventually they included 326 people. The following subject areas were included in the Reagan pre-election policy structure:

ADMINISTRATION OF JUSTICE	LAW ENFORCEMENT
AGRICULTURE	NEIGHBORHOODS
ECONOMIC POLICY	REGULATORY REFORM
EDUCATION	SCIENCE AND TECHNOLOGY
ENERGY	SMALL BUSINESS
ENVIRONMENT	SOCIAL SECURITY
FOREIGN POLICY	SPENDING CONTROL
HEALTH POLICY	STRATEGIC MINERALS
HOUSING	TAXATION
INFLATION	TRANSPORTATION
INNOVATION AND ENTREPRENEURSHIP	URBAN POLICY
INTERNATIONAL MONETARY POLICY	VICTIMS OF CRIME

The assignment of the task forces was to identify the key policy issues that needed priority attention by the new Administration. The groups were encouraged to be as flexible as possible and to exercise initiative in identifying policy issues and developing optional approaches to them. Each group met two or three times between August and the election, and their members had additional contact by telephone and mail. Each task force summarized its findings in a report, due by November 11, 1980. Many of the task force reports were confused with and in accurately described a transition team reports by the media.

After the election, the policy staff consolidated to a group of 50-60 professionals and 15-20 support staff, most of whom were dollar-a-year employees. The Office of Policy Coordination (OPC) was organized along lines similar to the transition teams reporting to the Office of Executive Branch Management with the addition of a separate section for science and technology (Appendix M).

The mission of the OPC was to sort out and analyze the information and recommendations contained in the pre-election policy task force reports, the reports of the departmental transition teams, the transition Congressional Advisory Committee, and other outside information and reports. This material was reviewed with Martin Anderson and Richard Allen, the transition's chief domestic and foreign policy advisors and developed into briefing papers for formal policy meetings of the Senior Staff. The product of this effort was policy guidelines and decisions developed by the Senior Staff and the President-elect for the first 100 days of the Administration. The OPC also prepared policy briefings and notebooks for the confirmation hearings of the Cabinet nominees.

## 1. POLICY PLANNING AND EVALUATION

Policy was also the assignment of another transition organization, the Office of Planning and Evaluation, under direction of Richard Wirthlin. The three-man Office of Planning and Evaluation (OPE) was not primarily concerned with either the operational aspects of the transition or specific policy issues and decisions, but rather with the structure of decision-making and how best to allocate the President's own time in making policy decisions once he assumed office. This was an outgrowth of Wirthlin's pre-election responsibility not only for polling, but also for developing the strategy for allocation of the candidate's campaign time. The OPE developed a series of memos on the organization of White House activity. It also developed the concept of Cabinet Councils to coordinate policy planning and decision-making, and explored a realignment of the domestic policy staff that would advise the President in this revised context (Appendix N). The OPE also advised the Budget Working Committee on what public reaction might be to specific budget cuts.

The OPE reviewed the major success and failures of the first 100 days of each Administration since Roosevelt and developed a strategy for achieving maximum focus on an economic recovery package by sequencing economic, domestic and foreign policy decisions and announcements. This involved weighing public attitudes, the legislative schedule of program expirations, budget constraints, and the expressed wishes of the President-elect as to what he wanted to accomplish during his Administration.

Finally, OPE was also asked to define the possible scope and function of an Office of Planning and Evaluation in the White House. This resulted in the establishment of the first White House office with this set of responsibilities. A principal function was to plan Administration relationships with outside constituencies, including Congress and other levels of government.

## 2. BUDGET COORDINATION

The national budget is the concrete embodiment of an Administration's policy goals. The Reagan transition recognized the budget's importance by establishing an Office of Budget Development during the campaign under Caspar Weinberger, a former Director of OMB. In early December 1980, this job was assumed by David Stockman, whom Reagan had selected as his Director of OMB. Stockman, as a Congressman, already had an unusually detailed grasp of budget issues when he took over.

One of the most sensitive transition problems — and the one most likely to lead to misunderstanding between the incoming and outgoing teams — is preparation of the Federal budget during the transition period. The outgoing Administration is required by statute to present a valedictory budget to the Congress in early January. This budget, while largely symbolic, is nevertheless prepared with all the formality and feverish government-wide numbers-crunching of a normal budget. The incoming Administration, in order to put its stamp on the congressional deliberations, seeks to develop a revised budget at the earliest opportunity. This revised budget is real but must wait for assistance from OMB professionals until the outgoing President's budget is wrapped up — usually well after Christmas.

The result is intense frustration for the incoming team, which desperately wants to learn all it can about the programs it will inherit as soon as possible, and a prickly sensitivity by the outgoing team which, because many important budget decisions have been deferred until after the election, has only six weeks to complete work requiring four months in normal years. The OMB career staff is caught in the middle, with the seemingly impossible job of reconciling demands of old and new leaders.

The contention over OMB resources reflects the fact that the budget has become a political lightning rod for Presidents in the last decade. In the past, when OMB enjoyed a less partisan role, budget transitions were less contentious. In 1953, President Truman decided to submit only an equivalent services, status quo budget to Congress, arguing that anything else was "all form and no substance." President-elect Eisenhower was able to place his designee for budget director in the agency within days after the election. He sat in on budget review sessions and the outgoing director made every effort to help him learn his new job as quickly as possible.

In 1976, the Ford Administration held the Carter budgeteers at bay until after the New Year. No official contact was permitted between the OMB career staff and the Carter team, though there was some formal contact at the appointed level of the agency.

In 1980, the Reagan team was given selective access to OMB careerists in early December, limited to regulatory policy and management areas. Director McIntyre made available a current services budget, which is a baseline representing what the budget would be without any changes in policy, to Director-designate Stockman a week before Christmas. Contact with the budget examiners in OMB was not officially permitted until January 5th by the Carter Administration.

The reluctance of the outgoing Administration to permit early access to budget professionals is based on several concerns. First, to meet the mid-December deadline for final budget decisions by the President, the budget examiners must work very long hours in November and December. Responding to requests for information from the incoming team may put them off schedule. Secondly, there is concern about leaks of sensitive policy data to the new team. The outgoing budget director fears that the incoming team may take political advantage of various options being considered before the President has had a chance to make his own recommendations on them to Congress.

While these are real concerns, they beg the major question raised by transition budget-making: Is it necessary for the old Administration to put the new one on hold while it forces the government through an intensive budget exercise, the results of which may become largely irrelevant soon after its presentation to Congress? Defenders of the status quo argue that the lame duck budget is a significant political statement which most Presidents will be reluctant to forego. It is both the last justification of the old Administration and the first statement of the new opposition. It is sometimes used as a benchmark, particularly by the media, for measuring the direction and degree of change attributable to the new President, and is therefore a highly political document. For example, some budget decisions — e.g. large boosts in foreign aid and energy programs — were designed to allow Reagan to make the dollar cuts promised in his campaign, but still maintain a critical core to keep the programs alive.

The cost of the present system of dual budgeting should not be underestimated. Not only is the new Administration delayed in developing its first year program, but the permanent staff it finally takes over is exhausted. Several options to improve this system have been suggested:

- a. Use the policy officials in OMB and the agencies to prepare a general policy budget or statement which highlights major priorities of the outgoing Administration but does not propose detailed budgets for each agency and program in the government.
- b. The career staff might routinely prepare a current services budget to assist the outgoing Administration in this exercise.
- c. The new Administration might be permitted to use the career staff to prepare its budget as soon as the current services budget is completed. This should permit the career staff to start working for the new Administration by Thanksgiving.
- d. The requirement that the outgoing President must present a final budget to Congress might be waived altogether.
- e. Congress could change the date on which the budget is presented in the year following a Presidential election.

(This subject is discussed further in the Recommendations, Section X, Issue No. 6.)

### *C. Personnel*

With the exception of policy and budget, a new President's greatest opportunity to change the country's direction is through the use of his appointment power. Whom the President appoints to his Cabinet, to head independent agencies reporting to him, and to the regulatory commissions is of enormous consequence. The job of preparing for these hundreds of decisions is a major challenge, requiring attention well before the election. Even then, the 2½ months of the transition does not allow nearly enough time to staff the new Administration fully.

The Reagan team's Presidential Personnel Group (PPG) was established in August 1980, using privately-raised funds. The PPG was headed by Pendleton James, and after the elections was reorganized in roughly parallel form to the OEBM. Separate sections were set up for legal and administrative agencies, human resources, national security, economic affairs, and resources and development. In addition, other key sections were political liaison, control and administration, and the conflict of interest counsel (Appendix O).

The basic task, which carried over into the post-election transition and then to the White House after the Inauguration, was to gather information about the critical jobs in a possible new Administration and to identify persons who would be qualified to fill those jobs. This encompassed a great deal of computer work, recordkeeping, and clerical activities, as well as more evaluative tasks. The services of a professional consulting firm were engaged to help with some of these tasks.

The basic sources of names of candidates were the Reagan Senior Staff, the State campaign and political organizations, Members of Congress, and a Personnel Selection Advisory Committee which was chaired by William French Smith and later by William Wilson. In addition, there was a large number of unsolicited resumes.

A file was set up for promising individuals and all correspondence, recommendations, and other matters pertaining to those individuals went into their respective files. In line with a practice begun by President-elect Nixon in 1968 with much fanfare, a computer was used to keep track of names and jobs to be filled. Recorded data included the candidate's name, who recommended him or her, a summary of the individual's education and background, a political rating, and the position that the individual was being considered to fill. Eventually, some 30,000 names were put into the computer bank. No computer is capable, however, of assimilating all of the evaluative information that goes into the political appointive process.

Under each of the five functional associate directors, a personnel specialist was assigned to assess candidates for each department and agency. The specialist interviewed candidates according to his own method and gave a list of those he felt qualified for a particular position to the appropriate associate director. This list was ranked or unranked at the discretion of the associate director.

The associate director then passed along the candidates' names for legislative clearance (if it involved a position in the legislative area), for political clearance, for policy clearance and then finally for IRS, FBI, ethics and disclosure clearance. Names that were cleared through this process were then sent back to the PPG for ranking and priority ratings, prior to being submitted to the Senior Staff to accept or reject. If the name was accepted, it went back to personnel for a memorandum of recommendation to the President.

The conflict of interest, FBI, IRS, ethics and disclosure checks proved to be the most troublesome steps in the operation and generally took three weeks or more. In most instances these checks had to be done *seriatim* causing further delay. The requirements for divestiture and detailed disclosure of private financial information caused a bottleneck in the procedures, and also discouraged some well-qualified individuals from seeking or accepting positions with the government. (This subject is discussed further in the Recommendations, Section X, Issue No. 15.)

The system of staffing high-level positions in government is fundamentally different from that prevailing in the private sector. Senators, Congressmen, Governors, Senior Staff and others each claim a certain degree of influence on selection of political personnel, and this aspect of the process is unlikely to change as long as democratic coalitions control the results of elections.

After the Inauguration, the Presidential Personnel office was reorganized and moved to the White House.

## ***D. External Relationships***

External constituency relationships can have a profound effect on the political environment of a transition. An incoming Administration can have superbly efficient and effective processes in place for decision-making on policy, personnel, legal and administrative matters, yet be perceived by the press, the public, and Congress as off to a bad start simply because of inept or inadequate communications with these key constituencies. The Reagan transition was well aware of the importance of its external relationships, and organized systematically to keep them informed and consulted.

### **1. CONGRESSIONAL RELATIONS**

The transition's Congressional Relations (CR) office was set up on the first day after the election under the direction of Tom Korologos. While it fell under the Office of Executive Branch Management (Appendix P), as a practical matter it operated more or less independently because of the many lines of authority it had to cross.

Its basic mission was to establish an open and constructive relationship between the incoming Administration and the 97th Congress. It was clearly recognized that the basis and tone for the President-elect's relations with the Congress that was set during the transition would last far into his Administration. In addition to the large, easily recognized issues, special attention was given to taking care of "little things" such as tickets to the Inaugural, positions on minor bills, special notes of thanks and so forth.

Great care was taken in the choosing of the Congressional Relations staff, which was divided into separate offices for the House and Senate. There was an explicit intention to give the initial group training for possible inclusion in the White House Congressional Relations office after January 20. Every person chosen for the transition staff had some Hill or lobbying experience. For this reason, there were few volunteers in the office. For the most part, volunteers were discouraged because they were difficult to supervise and no time was available for on-the-job training.

Several senior advisors who were not going to go to the White House served as "instructors" for the newer staff members. Two Members of Congress — Senator Paul Laxalt and Representative Tom Evans — were used in a similar role. Their function was to be a sounding board for ideas, visits, meetings and events relating to the Congress.

The efforts of the CR group fell into four broad categories. First, CR handled personnel resumes and referrals from the Hill. Second, it conveyed information on legislative positions to the Congress during the lame duck session during November and December. Third, CR arranged courtesy calls to the Hill by the President-elect. Fourth, CR expedited the confirmation of the Cabinet so that as many Cabinet officers as possible could be in place after the Inaugural ceremony on January 20.

#### ***(a) Personnel Referrals***

Thousands of resumes were sent to the transition office from the Hill — many more than had been anticipated. Most came by mail, but many of the referrals were made by telephone. Every letter that came from the Hill required a response and referral to the Personnel Group for appropriate handling. Lack of computer typewriters and form responses hampered efforts to respond for at least the first two weeks, and the office fell behind in responding. Matter, members of the staff gave numerous talks to Members of Congress and their staffs at various meetings, emphasizing the great number of resumes that were coming in and the relatively small number of jobs actually available. This was designed to help discourage the Members from over-promising assistance.

**(b) Positions on Issues**

The Democratic leadership decided to bring the Congress back into session after the election, and the resulting lame duck session presented unique and difficult problems. Given that the Republicans would be much stronger in the next Congress, this presented a very sensitive situation to the Congressional Relations office. Innumerable requests came from the Hill asking for the President-elect's position on major and minor issues before the Congress. Since there was no Reagan OMB or Domestic Policy Staff to fall back on, it was difficult to frame official responses. Some large issues (such as auto imports, a pay raise, defense initiatives, etc.) were handled by the regular 7:00 a.m. Senior Staff meeting, but no Congressional Relations officers attended those meetings and information usually emerged second hand. Fortunately, this problem became manageable once the Congress finally adjourned sine-die.

**(c) Courtesy Calls**

Early in the transition, it was decided that the President-elect should make a series of courtesy calls to the Hill. In consultation with Senator Laxalt and Representative Evans, these visits were organized and structured to gain the best exposure for the President-elect, to lay the foundation for his relations with the leaders, and to establish a "two-way street" concept of Executive and Congressional relations. In addition, the President-elect hosted several luncheons at Blair House for Members of Congress.

**(d) Confirmations**

Naturally, the President-elect wanted as many of his Cabinet as possible in place by January 20. The key to achieving this goal was Senate Majority Leader Baker, who brought the Senate into session for the 97th Congress on January 5. This gave the incoming Administration 15 days to obtain confirmation hearings on all of its nominees, submit their names formally and have the President sign the papers shortly after noon on January 20. It also meant that the permanent Congressional Relations office had to be in place before the Inauguration to coordinate with Congress from January 5. One individual from the transition team was assigned to each Cabinet officer to assist him in consultation, courtesy calls and his confirmation hearing. This afforded the new permanent staff the chance to meet key Members and Chairmen of Congress, and to build a working relationship with the Cabinet officers. With excellent cooperation from the Senate and its leadership, the Cabinet was basically in place shortly after the Inauguration.

**2. PUBLIC AFFAIRS**

The transition's public affairs operation was designed to coordinate information that was disseminated to the media and the public with information from those sources that was useful to transition decision-makers. Thus, the Office of Public Affairs, which was headed by Robert M. Garrick, prepared news briefings, catalogued information, acted as a depository for documents, provided media relations support, and operated a public response desk (Appendix Q).

**(a) Information Outflow**

The Reagan transition team felt that the transition should present a coherent and coordinated picture to the public, and designated a media management team as an official vehicle from which official releases, positions and policies were to flow. After the campaign, all press functions were eventually consolidated under the Office of Public Affairs.

The transition had two press operations — one in Washington and one headquartered in a house leased across the street from President-elect Reagan's home in California. The two offices exchanged material daily to coordinate the press activity and to ensure a planned and orderly release of the incoming Administration's positions, policies and appointments.



Press briefings were held each morning by both Joseph Holmes in California and James Brady in Washington. They both received their information from the morning Senior Staff meetings or from Ed Meese. Approximately every third morning, Meese gave the press personal briefings to fill in any gaps.

Approximately 12 people operated the Washington Press Office on a 24-hours basis. The Western office staff numbered 6 people. When the President-elect traveled, James Brady and a support staff of 2-3 people traveled with him to cover press matters.

Any transition must face the problem of too many people involved in the transition speaking to the media without authorization. The Reagan transition established that only the Transition Director or the two Press Secretaries were authorized as spokesmen for the transition. In order to curtail unauthorized release of material or gossip, all personnel in the transition were advised in bulletins not to comment on substantive matters to the media. Media calls to transition personnel were logged and reported, sensitive material was held among the Senior Staff until released, and individuals who released material to the media in an unauthorized manner were disciplined. The Public Affairs Office did not have a secure room or safe, though burn bags were used to destroy tapes and typewriter ribbons on sensitive material.

***(b) Public Response Desk***

An outgrowth of the Answer Desk in the campaign was the creation of a Public Response Desk in the transition as part of the Office of Public Affairs. The desk was staffed by one paid person and several volunteers. Its primary responsibility was to provide noncontroversial information on the new Administration as a public service to legislators, campaign workers and the general public. No editorializing was permitted and all answers were drawn from a cleared issues book. The Public Response Desk maintained five telephone lines and was in operation from 8:00 a.m. until 8:00 p.m.

***(c) Information Inflow***

While the OPA controlled the outflow of information, it was also responsible for monitoring press coverage of the transition and of national and international developments such as the Iran hostage situation. An Operations Center worked on a 24-hour schedule to provide daily news summaries for the President-elect and Senior Staff by 8 a.m. They were then released to other transition personnel. The news summaries were basically prepared from five national newspapers, three wire services, and monitoring national news broadcasts. (It should be noted that the monitoring and taping facilities were not considered an allowable expense by GSA and had to be paid for from private funds.) These arrangements had to be made a month prior to the election, particularly for obtaining the three wire services which required special electrical hook-ups.

The Operations Center also maintained a confidential list of contact numbers so that Senior Staff could be located at all times. Since the switchboard telephone lines at the transition were not secure, information was often relayed so that staff members could return calls using lines outside the transition headquarters.

A research library and central file depository were also established. Sixteen file cabinets of material from the campaign was boxed and shipped to the transition headquarters. Clipping files of periodicals and major newspapers assembled during the campaign proved to be a valuable resource during the transition.

### 3. OFFICE OF SPECIAL LIAISON

The Office of Special Liaison (OSL), with Drew Lewis designated as Director, acted as the liaison between the transition and the Republican National Committee, women's groups, the Inaugural Committee, the business community, and State and local government organizations. In addition to this, the OSL developed and coordinated a Policy Executive Briefing Program for Cabinet-designees and Senior Staff members.

The staff of the OSL consisted of 7 volunteers. The structure was kept informal to maintain as much flexibility as possible.

Leaders of major outside private organizations were kept informed of transition activities through a series of information sessions with transition officials and periodic telephone communications. Outside organization leaders were consulted on both policy and personnel matters.

Liaison was also established with the principal organizations representing governors, mayors, city managers, and other local government officials. These organizations were kept informed on transition matters affecting their clientele, and consulted for advice on policy questions.

The transition maintained close contact with the Republican National Committee (RNC) throughout the entire transition period, a relationship aided by the fact that Lewis was also Deputy Chairman of the RNC. This liaison was especially important for personnel recruitment. The RNC served as a clearinghouse for resumes, which were sorted and coded before being sent to the transition personnel group. The RNC set up a program called Target 80's to help place women in top level government positions.

#### *(a) Policy Executives Briefing Program*

Finally, the Office of Special Liaison targetted perhaps the most important "constituency group" of all — the men and women nominated for the top positions in the Reagan Administration. A "Policy Executives Briefing" program was established to brief these designees on overall Federal Government operations and issues. The briefings included information on the structure of the White House and the Executive Office, and the functions of agencies such as OMB, OPM, and the EEOC. Laws governing Standards of Conduct, Freedom of Information, Privacy, and Conflict of Interest were also reviewed.

This program was set up in four phases. The first was a presentation to the Cabinet-designees; the second for sub-cabinet designees; the third for Assistant Secretaries and the fourth for all Deputy Assistant Secretaries and lower non-career policy-making positions. However, because of conflicting demands on time, the program was limited to one day because of Cabinet confirmation hearings.

### *E. Legal Questions*

Legal questions were among the most difficult and pervasive problems confronting the 1980-81 transition. A large number of Federal statutes present potential restrictions to a transition. Many laws do not consider situations which may arise in a Presidential transition. Since it is unreasonable to expect that Congress will act to clear up all the statutory ambiguities in the next few years. Future transitions are also likely to devote a great deal of time and attention to legal questions. Therefore, this report deals in some depth with questions of legal interpretation addressed by the Reagan transition, in the hope that recording its experience will be of some usefulness to future transition planners. As a summary, Appendix R lists, without elaboration, a compendium of legal questions that the transition addressed.

All legal questions and problems that arose during the transition were referred to the Office of General Counsel, headed by M. Peter McPherson, for research and decision. The Counsel's Office screened transition personnel for conflicts of interest prior to their employment, participated in Senior Staff meetings, and coordinated the activities of counsel to the teams in the departments and agencies. The very sensitive issues of succession and removal of incumbent political appointees were coordinated with the OEBM by the Counsel's office, recognizing the fact that some of these personnel issues transcended legal questions.

## 1. APPLICABILITY OF PRIVACY ACT

The Privacy Act, 5 U.S.C. Section 552 (a), restricts how much and what type of information is available on all government employees. As a matter of public record, the incoming transition team has access to information on each employee's title, salary, function, Federal job history, race, sex, and education. An employee's job history outside the Federal Government and any Federal job performance evaluation material is not available to the public, and therefore is not available to the incoming transition team. Since plans for staffing and reorganization often hinge on the relative strengths and weaknesses of senior career staff, the Reagan transition team asked the career employees of several agencies to submit resumes on a voluntary basis. This was quite helpful, but proved to be a poor substitute for more candid and in-depth personnel information obtained through interviews. (This subject is discussed further in the Recommendations, Section X, Issue No. 13.)

## 2. APPLICABILITY OF FREEDOM OF INFORMATION ACT

The basic concept of the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, is that all records in the possession of the Executive branch of the Federal Government must be disclosed pursuant to a FOIA request unless specifically exempt. The FOIA aims to control executive secrecy by substituting legislative judgment for administrative discretion as to what may be kept secret. FOIA could be a tool used by incoming transition teams, but in practice this has been unnecessary, and would no doubt amount to an overly cumbersome, technical, and time-consuming procedure.

Like other transitions, the Reagan team had no need to use FOIA. In his memorandum of November 10, Jack Watson had directed all Cabinet and agency heads to cooperate with the Reagan transition teams in accordance with the President's directive that the transition of power be as smooth and efficient as possible (Appendix C). That memo authorized turning over "information that will be of immediate usefulness to the incoming officials," but also directed the responsible officials not to disclose Fiscal Year 1982 budget information or any other classified or sensitive information. Because the disclosure of classified information to those without the necessary security clearance constitutes a felony, transition team members who needed access to sensitive materials had to obtain or demonstrate security clearances.

Given the quasi-public status of the incoming transition team, an issue arose as to 1) whether information and material transmitted by the outgoing team to the Reagan team should be made available to the public, and 2) whether material created solely within the Office of the President elect is subject to FOIA. In fact, several requests were made by private citizens for transition briefing material under the FOIA. A corollary issue developed after the Inauguration as to whether Reagan transition papers were not also subject to FOIA if they were used by the Administration.

The position of the Carter Administration on FOIA requests during the transition was that: 1) any requests directed to the Carter transition team were not subject to FOIA since the transition team itself was not defined as a Federal agency within the meaning of FOIA; 2) any requests directed at the White House were also exempt from FOIA since it, too, is not defined as a Federal agency; 3) requests directed to the Federal agencies for transition material transmitted to the Reagan transition

team, on the other hand, were subject to FOIA, except for those documents specifically exempted by the Act — national security, personnel records, interagency communications, etc. As a general rule, therefore, FOIA requests directed to the Federal agencies were approved when the transition information would have otherwise been available to the public.

The position of the Reagan Administration on post-Inaugural FOIA requests for transition materials was that the information should not be released unless it was actually used by the Administration, and if the material did not fall under any of the exceptions to FOIA. The Reagan Administration denied, however, any requests for transition material which were not used later by the Administration, as evidenced by it being an official government document, or integrated with government files and papers. (This subject is discussed further in the Recommendations, Section X, Issue No. 16.)

### 3. CONFLICTS OF INTEREST

While the Personnel Group was in charge of establishing a procedure to apply the conflict of interest, disclosure, and ethics provisions of the "Ethics in Government Act," the General Counsel actually assumed responsibility for investigating potential conflicts of interest among transition staff.

It should be noted that the Reagan procedures were not a legal requirement. The Presidential Transition Act of 1963, as amended, 3 U.S.C. Section 102, Note (1979), provides that transition personnel (other than those on detail from Federal agencies) are not considered "Federal employees." They are therefore exempt from the Federal statutory and regulatory constraints that apply to Federal employees concerning conflicts of interest.

Nevertheless, President-elect Reagan felt that in order to ensure the integrity of the incoming Administration, it was necessary to establish a central clearance process to protect against actual, potential or apparent conflicts of interest on the part of all transition personnel, to the maximum extent possible. In part as a result of advice from the outgoing transition team, Guidelines for Standards of Conduct (Appendix S) were developed and distributed. In addition, senior transition personnel and potential transition team members were required to complete a personal data sheet (Appendix T) which was carefully examined by the General Counsel's office before the individual was assigned to a transition team.

Basically, the transition adopted the view that a conflict of interest exists whenever an individual working on behalf of the transition uses his position to further his personal or financial interests or the interests of his family, business associates, employer or client.

The form solicited information on the individual's connection with any business enterprises, including those in which he or she had a financial interest of more than \$100,000 through ownership of stocks, bonds or other arrangements, including trusts. The personal data sheet also required disclosure of the individual's involvement in any administrative action pending before a Federal department or agency. Several questions concentrated on the potential transition employee's ethical conduct and any possible record of civil or criminal offenses.

If the General Counsel determined that a potential conflict or an appearance of a conflict existed, the individual would either be prohibited from serving or would serve in a limited capacity without access to material or personnel in the area of sensitivity. (This subject is discussed further in the Recommendations, Section X, Issue No. 3.)

#### 4. SEPARATION OF POWERS

Attention was required to the propriety of congressional staff members working on the transition, since the separation of powers doctrine prohibits their working in the Executive branch of the government.

Employees of the House of Representatives staffs generally fall into four categories:

- a. professional staff of committees
- b. clerical staff of committees
- c. investigative staff of committees
- d. clerks to members

House Rule XI clauses 6(a)(3)(B) and (C) provide that professional staff members of committees shall not engage in any work other than committee business, and shall not be assigned any duties other than those pertaining to committee business. House Rule XI clause 6(b)(1) limits the service of clerical staff of committees to "matters related to committee work." The rules do not specifically address investigative staff, but it is assumed that limitations regarding committee business would also apply. In response to a transition request, it was concluded by the Committee on Standards of Official Conduct of the House that "if the employing authority in each case determines that the service his or her employee would perform as a legislative coordinator is "official or representation" to the employing authority, such services would not be proscribed" (Appendix U). A similar dispensation was received from the Senate. This was, of course, a significant limitation.

Employees from both the Senate and House were used in the transition operation and paid by the Congress. They worked as legislative coordinators and functioned under the direction and authority of their supervisor as they do in their ordinary course of work with the Executive branch on legislative matters. Work on matters unrelated to legislation was undertaken on a voluntary basis over and above the normal workday devoted to Senate or House business.

Despite the permissibility of using congressional staff members for the transition, both incoming and outgoing Administrations must be sensitive to the conflicts that might develop. (This issue is discussed further in the Recommendations, Section X, Issue No. 8.)

#### 5. SUCCESSION

The question of succession arises from the legal need for someone to be empowered to act officially on behalf of a department or agency until the incoming Administration's nominee is confirmed. A Reagan team headed by William Tucker worked directly with Harrison Wellford of the Carter transition team to iron out the plethora of individual succession questions that arose in 1981. A great deal of time was spent on succession questions, in part because government-wide requirements and constraints were nowhere codified. For these reasons, this section treats succession in unusual detail.

Under the Constitution the appointment power is not the President's alone, but is to be exercised jointly by the President and the Senate. The President's power to make unconfirmed appointments is limited constitutionally to situations arising during a recess of the Senate or where Congress has specifically provided for such appointments.

The Vacancies Act, 5 U.S.C. (supp. IV) 3345-3349, goes back to the Vacancies Act of 1868. It provides the manner in which vacancies resulting from the death, resignation, sickness or absence of a head or of an officer in a bureau of the departments may be filled. The Vacancy Act is a general congressional provision for succession at the top of the executive and military departments (Defense, Labor, State, Health and Human Services, Housing and Urban Development, Interior, Commerce, Agriculture, Treasury, Transportation (49 U.S.C. 1652 and Justice, 5 U.S.C. §508) and the bureaus within those departments). When a vacancy occurs, the first assistant to the vacant position (who must have been confirmed by the Senate) is automatically authorized to perform the head officer's duties until a permanent successor is named (5 U.S.C. 3345-46). The President also has the option of naming an officer of another department or bureau, whose permanent appointment has already been confirmed by the Senate, to fill the vacancy (5 U.S.C. 3347). In each of these cases, however, the temporary officer's authority is limited to thirty days (5 U.S.C. 3348). After this period has elapsed, the office must remain vacant until a permanent officer is appointed with the advice and consent of the Senate.

In general, appointments to the Cabinet and Executive Office of the President are made and confirmed fairly quickly after the incoming President is sworn in. Nevertheless, arrangements must be made for an acting head of the President-elect's choice during the period between the President's Inauguration and the swearing-in of each Cabinet member. If a department head is not designated and confirmed quickly this could present a problem.

In the very sensitive departments such as Defense and State, and in agencies such as the Central Intelligence Agency, either the head of that department or the deputy is usually requested to remain in place until the designee of the incoming President is nominated, confirmed, and sworn in.

The outgoing and incoming Administrations worked together closely to identify policy-level employees in the departments most acceptable to the incoming Administration, in order to maintain smooth department operations until the incoming leadership was confirmed by the Senate.

The line of succession is provided for in the Vacancy Act and department organic legislation. In practice, the Reagan team simply communicated to the Carter team the name of a "qualified individual" to serve as acting head. The Carter team then approached the outgoing department head to obtain his or her agreement and to make all other arrangements. For various reasons, some of the original choices for acting heads were not acceptable or available and an alternate had to be selected. For this reason, early attention to succession questions is advisable.

The independent Executive agencies present a different set of problems in that weeks and months can pass before the incoming Administration has nominated a new head of the agency and the individual has been confirmed by the Senate. The authority to appoint an acting head of an independent agency is usually controlled by the organic statute of that particular agency, or by an administrative order of succession. The organic statute of the agency must therefore be reviewed in order to determine the method of designating an acting head. If an acting head is not designated by the President, the individual in the line of succession will become the acting head of the agency by operation of law. When the incoming Administration is comfortable with an individual in the line of succession, the resignations of all individuals above that particular person may be accepted by the incoming Administration. The chosen individual will then become the acting head of the agency by operation of law. In agencies where there is no one in the line of succession with whom the incoming Administration is comfortable, it is advisable to obtain an opinion from the Office of Legal Counsel at the Justice Department in regard to the method of designating an outside acting head. In some agencies it may be necessary to hire consultants to act as a liaison between the Administration and the particular agency. (A list of independent agencies existing in 1980 is included at Appendix V.)

As a further coordinative step, the two transition groups appointed a continuing OMB official to carry on after the Inauguration to coordinate the acting heads, who were mostly members of the prior Administration. This gave the acting heads a mechanism for bringing *ad hoc* policy and succession issues to the attention of the White House.

Several guidelines emerge from the 1980-81 transition's experience in organizing succession and the naming of acting heads at departments and agencies:

- a. All Presidential appointive positions should be identified and cataloged with names and titles prior to January 1.
- b. Between January 1 and January 10, the incoming Administration should obtain resignations or "offers of resignation" from all incumbent Presidential appointees.
- c. The incoming Administration, in consultation with the outgoing Administration, should select the individual whom it desires as acting head of each department and agency, and between January 10 and January 20 should prepare the necessary documents to make these designations effective. Very close communication is needed on this matter between the two transition organizations, and each should probably designate one person as responsible for succession questions.
- d. Written opinion should be obtained from the Office of Legal Counsel in the Justice Department on the manner of designating an acting head of a department or agency when any serious question exists.
- e. After January 20, an individual should be designated to coordinate the activity of those who are acting heads of departments and agencies until the new leadership is installed.
- f. In departments or agencies where the Administration is not comfortable with the acting head, consultants should be brought on as liaison persons.

## 6. REMOVAL OF INCUMBENT OFFICIALS

While it is generally believed that the only personnel problem facing a new incoming Administration is to fill the hundreds of vacancies left to it by the outgoing Administration, in fact the process of "outgoing" is fraught with ambiguity, disorganization, and opportunities for misunderstanding and ill will. Special care must be taken to balance legal, personal, and political factors in the interests of both continuity and courtesy. In no other realm is cooperation between the incoming and outgoing transition officials of more delicacy. In the 1980-81 transition, Michael Farrell coordinated resignation and removal actions for the incoming team.

Any incoming Administration is accorded the right to remove all persons holding exempt or non-civil service protected positions in other than independent regulatory agencies. The incoming Administration usually lacks complete information on all but the most prominent appointive positions and their incumbents, so its first task is often to gather this information.

Reagan transition team personnel officers assigned to the departments attended several meetings with the General Counsel's office to prepare for their initial contact with the departments and agencies. The meetings centered on collecting the information during the transition period needed to make determinations as to who should be retained, or removed, by an incoming agency head. A personal interview data sheet was given to each personnel team member (Appendix W). In addition, a personnel interview memo was prepared and given to each attorney advisor and personnel team member.

Several major problems developed from this procedure. The first and most serious problem was the magnitude of the proposed interview process itself. Most department and agency transition teams had only one or sometimes two personnel members assigned to it. With the large number of people to be interviewed and the Thanksgiving and Christmas holiday interruption, it proved impossible to

interview all the exempted individuals before the end of the year. Each interview was a subjective challenge, and the cooperation of the individual to be interviewed could not be assured. In the end, the compilation of all contemplated material and evaluations was never adequately completed.

Many officials of the outgoing Administration feel, often with justification, that their qualifications are not especially partisan, even if they hold positions exempt from civil service. They are proud of the job they have done and harbor an often unexpressed conviction that the new Administration will want to keep them on, at least for awhile, in interests of continuity. Cordial relationships with incoming transition personnel, even if noncommittal, can bolster this hope. The outgoing Administration has a considerable debt to its loyal officials, and is reluctant to pressure them to resign against their own inclinations and in the absence of a clear signal from the incoming forces. The incoming Administration is also often slow to appoint heads for smaller agencies, so the future of their many exempt employees remains especially uncertain and causes serious morale problems.

In order to allow outgoing appointees more time to deal with this uncertainty, Harrison Wellford recommended that a 30-day grace period after January 20 be established, during which Carter appointees could remain on the payroll to advise the incoming transition team. The Reagan team recommended this policy to the agencies but left implementation of the policy up to the voluntary judgment of the department or agency head. Political officials at OMB and HHS were in fact granted a 30-day period by the Director and the Secretary, but no across-the-board grace period was granted in other departments or agencies. To reduce uncertainty and encourage cooperation between the incoming and outgoing teams, a President-elect might make a uniform policy on such a 30-day extension clear by December 1 in future transitions.

Resignation policy and coordination for the outgoing Administration was outlined by Jack Watson in a memo dated December 10 (Appendix X). Resignations prior to January 20 were considered voluntary and coordination of resignations was delegated to each department and agency head. There was little other follow-up on resignations until January 10.

An effort might be made in future transitions to assure that the removal and replacement process proceeds with a definite plan agreed to by both the incoming and outgoing Administrations. Exempted individuals should have knowledge of their status soon after the election and should be put on adequate notice of their probable termination. This places some responsibility on the outgoing Administration to determine and assist the affected individuals in changing jobs without the uncertain prospect of keeping their Federal jobs. The placement seminars conducted by the outgoing Carter Administration for higher ranking Presidential appointees were a constructive initiative, but better counseling is needed for lower level employees.

The outgoing Administration, in the second week of November, should consider sending to all affected individuals a request for "offer of resignation." When the "offer of resignation" is submitted, which should be no later than January 1, it may include information as to extenuating personal or job-related circumstances that may argue for delay in the individual's separation from Federal service. Each "offer of resignation" might also indicate whether the individual is willing or desires to serve in the next Administration. This procedure would allow the outgoing Administration to deal personally with its own appointees, which is likely to be a more comfortable relationship than that with the incoming Administration. It also permits them to receive letters of acceptance from the President who appointed them.

The foregoing discussion deals most directly with persons who hold Presidential and clearly exempt positions under the Civil Service statute. There are also positions at GS 16, 17, and 18 authorized to be filled by non-career executive assignment under Executive Order 11315 of November 17, 1966 (NEA), and a much larger category of Senior Executive Service (SES) personnel. The SES is a personnel system covering top level executive and managerial positions in most Federal agencies, established by the Civil Service Reform Act of 1978. It includes managerial positions previously classified at GS 16, 17, and 18 and Executive Level IV and V positions not requiring Senate



confirmation. There are approximately 8,600 SES positions allocated by the Office of Personnel Management (OPM) to individual agencies under an overall ceiling established by law.

The SES includes three types of positions: career reserved, non-career and general. By law, no more than 10% of total SES positions, government-wide, may be filled by non-career appointees. The proportion of non-career appointees may, however, vary from agency to agency (up to a limit of 25%) within the overall total. A new Administration has considerable freedom in shifting career SES members among jobs, but cannot do so without consent of the employee until 120 days after the transition.

Schedules A and B are also categories of positions exempt from civil service, not of a confidential or policy determining character, for which it is not practical to hold any kind of examination. Schedule C positions are of a confidential or policy determining character which are exempted from the competitive service and to which appointments may be made without examination by OPM.

As a practical matter, decisions regarding SES employees and Schedules A, B and C are handled in the most general way during the transition period. (This is discussed further in the Recommendations, Section X, Issue No. 13.)

The General Counsel's office gave considerable attention to the possible impact of the *Branti* court decision on the transition and removal process. Each personnel team member was given an in-depth memorandum on the potential implications of the *Branti* decision, which placed restraints on the ability of government officials to discharge patronage employees for solely political reasons. Although *Branti* did not greatly affect the 1980-81 transition, it may well be of major importance later on. Appendix Y is a discussion of the *Branti* decision and some guidance as to its interpretation.

## *F. Financial and Administrative Aspects*

While the attention of official Washington and the press is on the substantive policy and personnel decisions of the transition, little progress could be made on those questions unless administrative functions of the transition were organized and working effectively. The Office of Administration, headed by Verne Orr, handled space, equipment, supplies, transportation, payroll, communications and other miscellaneous matters for the transition that allowed its principal officers, and staff to concentrate on their jobs rather than on administrative details.

### 1. FUNDING OF TRANSITION OPERATIONS

In 1976, the Carter campaign had tested the applicability of fundraising and expenditure limitations of the Federal Campaign Financing Act to pre-election transition activities. By informal request, it asked the Federal Election Commission to permit it to solicit private contributions and to exclude the expenditure of such funds from its \$21.8 million general election limit. In July 1976, the Commission denied the request on a 3-3 party-line vote and the Carter campaign was forced to finance this pre-election planning activity, at a cost of approximately \$150,000, from its allotted campaign budget.

On August 15, 1980, a group of Reagan supporters filed a formal advisory opinion request with the FEC (Appendix Z), to permit publicly disclosed and audited individual donations for pre-election transition planning activities. The contributions, limited to \$5,000 per person, were to be placed in a "Presidential Transition Trust" established independent from the Campaign Committee. The funds were to be used to pay expenses incurred in gathering information on critical jobs, identifying potential nominees, and liaison activities with the General Services Administration (GSA) to plan a quick post-election establishment of offices and other facilities.

On September 15, 1980, the Commission issued Advisory Opinion 1980-97 (Appendix AA) granting the Trust permission to raise and spend private funds for pre-election transition efforts, provided: (1) that all donors were advised that the funds would not be used for the purpose of influencing the election; and (2) that no coordination or consultation would occur between the Trust and Campaign Committee personnel in carrying out the functions of the Trust.

The pre-election transition started to function immediately thereafter in the areas of organization, computer work, recordkeeping, clerical activities and personnel recruitment. With a relationship to GSA already well established, the Reagan transition team was able to become operational almost immediately after the election.

The senior group of transition officials who met in Los Angeles the day after the election determined that the \$2 million provided for incoming transition operations was inadequate in view of the nearly 50% inflation since the limit was established. Therefore, the Presidential Transition Foundation, Inc., was established to raise and administer private funds to be used for transition purposes, with Drew Lewis as Chief Operating Officer. The General Counsel's Office at both GSA (letters dated November 18 and 26, 1980, Appendix BB and CC) and the FEC (verbally) concluded that no legal prohibition existed to prevent the use of private funds in this effort, as long as they were not commingled with those administered by GSA. The Justice Department also verbally agreed with this conclusion. The Foundation's funds were derived from two sources thereafter: (1) post-election private funds solicited pursuant to the general groundrules established in the FEC opinion for pre-election transition funds; and (2) surplus primary campaign contributions which exceeded the outstanding liabilities of the Reagan for President Committee. (This subject is discussed further in the Recommendations, Section X, Issue No. 2.)

Careful accounting procedures must be instituted for the \$2 million of government funds appropriated for the use of the President-elect and Vice President-elect. The General Services Administration is

very careful about its statutory obligations to control and account for appropriated funds. The GSA Central Office Financial Management Division is responsible for providing accounting support for the transition, as well as administering financial control systems and disbursing all Federal funds. Private funds must be administered separately.

Federal transition funds cannot be committed or obligated until the Administrator of GSA makes a determination as to an "apparent" Presidential winner and the President-elect signs a letter requesting the expenditure of transition funds in his behalf through his designated representative. Transition funds may be obligated only by those individuals delegated this authority by the President-elect or his designated transition head. Transition funds are available for obligation from the day following the election until noon on January 20th.

Financial obligations are entered into the accounting system when obligating documents such as purchase orders, contracts, travel authorizations and printing requisitions are received by GSA. The GSA Financial Office has written a procedures manual which includes sample forms and instructions for all procedures which transition personnel are expected to follow.

Accounting transactions are coded in accordance with the standard object classes and cost elements used for GSA staff offices. A specific organizational code is assigned to the transition and all reimbursable expenditures incurred by the transition are charged to that account.

Due to the short period of fund availability, GSA will provide a weekly report which lists obligations and commitments by object class and cost element. In addition, the standard accounting reports (cyclical histories, fund balance reports, monthly histories, allotment status reports, and open items reports) are provided.

GSA will provide an imprest fund cashier on location at the transition headquarters to reimburse transition employees for personal expenditures incurred in the execution of official business.

The Secret Service, which is separately funded, provides security for the offices of the President-elect, and their expenses are not charged to the transition account.

The following table details expenditures of public funds by the 1976-77 and 1980-81 transitions. Private funds were used in 1980-81 in addition to the public funds that are detailed here.

#### EXPENDITURE OF PUBLIC TRANSITION FUNDS BY INCOMING ADMINISTRATIONS

<i>Item</i>	<i>Carter/Mondale 1976-77</i>	<i>Reagan/Bush 1980-81</i>
Salary, wages	\$946,248	\$1,175,356
Personnel benefits	67,578	88,861
Travel	360,339	145,789
Transportation (moving furniture, equipment into office & express delivery)		24,945
Telephone, Telegraph	106,460	
Office Space	48,526	
Rental, Equipment, Furniture (telephone, office space, rental, equipment, furniture included)	45,175	167,624
Commercial services	52,229	8,667
Supplies, misc.	26,724	27,735
Postage	25,035	16,949
Printing	14,456	45,944

Services rendered by other government agencies and Blair House	9,355	36,850
Other services (commercial, contract, etc.)		11,190
TOTAL	\$1,702,125 <sup>1</sup>	\$1,749,920 <sup>2,4</sup>
ADJUSTED TOTAL	\$1,778,153 <sup>3</sup>	\$1,747,551 <sup>5</sup>

<sup>1</sup>Source: General Accounting Office, Audit of Ford-Carter Transition Expenditures, December 23, 1977.

<sup>2</sup>All obligations were incurred during the period November 5, 1980, to January 20, 1981, as required by the Transition Act. For accounting purposes, however, valid obligations continued to flow into the system for actual payment for some time after January 20, 1981.

<sup>3</sup>GSA adjusted the GAO total to include additional expenditures for military aircraft, civilian airline charter and personnel compensation.

<sup>4</sup>Private funds were used in addition to the funds appropriated by Congress.

<sup>5</sup>Reflects difference between obligations and actual final billings.

## 2. PERSONNEL

Many hundreds of individuals must be dealt with in the process of hiring transition headquarters office staffs and transition team personnel. The amount of pre-election planning that goes into this effort is a judgment to be made by each Presidential candidate, but the more detailed planning becomes, the smoother the post-election transition will be.

The GSA Personnel Office will provide briefings on government hiring procedures and prepare "Personnel Packets" with all the forms and instructions required for transition employees to be expeditiously placed on government payrolls. The GSA Office of Finance will act as liaison between the transition and the National Payroll Center in Kansas City.

### (a) Full Time Personnel

The transition may pay its employees any salary it desires up to the maximum dictated by Congress (GS-18-I). Government payroll computers, however, are programmed to handle only the Civil Service GS salary schedule. Therefore, transition salaries should be determined in accordance with the GS salary structure.

In the pre-election contingency planning process, a personnel matrix can be created indicating position and salary. Personnel packets could then be pre-typed by position, with names and social security numbers added as available after the election. This practice would greatly speed the hiring process.

Full-time transition employees are eligible for Federal Government life insurance, health, retirement, and workman's compensation benefits.

### (b) Volunteers

Volunteers can make a major no-cost contribution to the productiveness of the transition. There are, however, a number of considerations which must be addressed when using volunteers. Some never demonstrate dependability. It is difficult to establish their legitimacy, especially to those outside the transition. Transition volunteers also have no Federal financial protection or insurance against on-the-job injuries.

**(c) "Dollar-a-Year" Personnel**

In 1980-81, some of these problems were alleviated by hiring "Dollar-a-Year" employees and paying them out of the Imprest Fund. This gave them status as "transition staff employees," which was sufficient for access to departments and agencies, and as such they were covered by Workman's Compensation. They were not eligible, however, for government life insurance, health insurance, or retirement benefits because of their nominal salaries.

Because of the paperwork involved, and competing requests for time, 1980-81 transition workers found the requirements to have all volunteers become Dollar-a-year employees cumbersome, time-consuming, and difficult to explain to volunteers. Some Dollar-a-Year personnel opted not to receive the dollar, although they completed all the necessary forms.

**(d) Detailed Personnel**

The transition team may request departments and agencies to "detail" specific individuals to the team to assist in the transition process. This must be on a reimbursable basis and the detailee's salary, while he or she is with the transition, must be paid from Federal transition funds.

**(e) Personnel Summary**

President-elect Reagan's transition in 1980-81 comprised 311 salaried staff employees, and an additional 331 staff members who drew token salaries of \$1. Approximately 917 volunteer staff personnel, though eligible for the token salary of \$1, opted to receive no remuneration from the Transition Act funds. Salary expenses paid from public funds totalled \$1,174,008, which included \$43,204 for eight employees detailed from Federal agencies on a reimbursable basis. (This subject is discussed further in the Recommendations, Section X, Issue No. 1.)

On a per annum basis, salaries ranged from approximately \$10,000 to \$49,000. About 190 of the 311 salaried employees were paid at a rate of under \$20,000.

**3. OFFICE SPACE**

On November 5, by agreement between GSA and the Office of the President-elect, office space and related services were furnished to the incoming transition. In some cases, the cost associated with these items was not charged to the Transition Act appropriation.

Section 490(j) of Title 40 U.S.C. authorizes GSA to waive otherwise required charges for space and related services when it determines that charges would be impractical or otherwise not feasible. Under this authorization, GSA determined that it would be impractical to charge for space or other items that were already in inventory, and were not acquired specifically for transition purposes. The Transition Act specifically directs the GSA Administrator to provide space, furniture, and like items "at such place or places within the United States" as the President-elect or Vice President-elect shall designate. The costs of other space or services would be charged to the Transition Act appropriation. A substantially identical arrangement was made during the 1976 transition period.

GSA provided 58,765 square feet of office space at no cost to the Office of the President-elect in an already-leased building located at 1726 M Street, N.W., Washington, D.C. The cost to GSA for the

portion of the building occupied by the Office of the President-elect during the period from November 5, 1980, to January 20, 1981, amounted to about \$177,000. GSA also provided furniture and equipment used in the building, consisting of 886 chairs, 412 desks, 274 tables, 185 file cabinets and 254 other miscellaneous office items. Since these items were in GSA's inventory, they were provided without charge to the Transition Act appropriation.

In addition, GSA furnished, at no cost, about 2,500 square feet of space to the Vice President-elect in the federally-owned building at 734 Jackson Place, N.W., Washington, D.C. The Vice President-elect also used, at no cost, about 1,000 square feet of temporarily vacant office space in the New Executive Office Building and some space in a Federal building in Houston. California offices were paid for from private funds.

#### **4. ADMINISTRATIVE SUPPORT**

GSA provided several individuals familiar with all GSA procedures and requirements to work with the transition personnel on a full-time basis throughout the transition period. GSA also provided all support services and professional personnel necessary to obtain leases and contracts for goods and services needed by the transition.

Identification badges for transition personnel were issued by GSA's National Capitol Region (NCR) at the transition headquarters. As demand slackened, this reimbursable service was available at the NCR offices.

#### **5. PRINTING**

Printing services are available from the Government Printing Office (GPO) on a reimbursable basis. Government regulations make it, in fact, mandatory that all official transition printing be done through the GPO. It should be noted that government printing services cannot be used for anything other than official business of the office of the President-elect. Private funds therefore had to be used to cover the commercial printing costs of business cards, stationery cost for the wife of the President-elect.

The Reagan transition team found that the stipulation to do all printing with the GPO to be impractical. Much printing work is done on short notice with a one-day deadline, but GPO is not set up to handle short notice printing requests. It would take a request from the Administrator of GSA to the Joint Congressional Committee on Printing, to exempt the transition from normal government printing regulations.

#### **6. MAIL/POSTAGE**

The Postal Service assigns a special ZIP code and mail bin for the Office of the President-elect. All mail and packages were x-rayed before being delivered to transition headquarters. The White House mailroom can assist on this with its scanning equipment. Special containers are needed to hold the hundreds of letters and packages which are hand-delivered daily. Franked mail and standard postage meters are available for official transition use and repaid for out of transition funds. It should be noted that franked postage envelopes are charged to the transition at regular postage rates, and destroyed envelopes or those used for intra-office communications cost first class postage.

## 7. VEHICLE SUPPORT

Government vehicles were available if desired, but they were of limited usefulness because transition employees were not eligible to obtain government driver's licenses. Commercial vehicles could be leased with transition funds. They often provided more convenient service in that all transition employees could drive them.

The number of parking spaces available depends on the building location and facilities available. The transition office may have to contract with a local commercial facility. The District of Columbia Government may be able to provide a limited number (3 to 5) of "official vehicle only" parking spaces in front of the transition headquarters building.

## 8. TRAVEL

The Transition Act permits the payment of travel expenses to staff members at their duty station if it is different than their principal place of business or residence. No allowances are available for movement of household goods or for the transportation of family members. All official travel by transition employees or persons invited to travel at transition expense must be in accordance with Federal travel regulations.

GSA travel regulations caused the 1980-81 transition a number of problems. Payment in advance for travel is extremely difficult because GSA requires that travel be done on contract carriers or justification be furnished for the use of another carrier. In addition, most of the travel during the transition is done with very short notice, and GSA is simply not programmed to issue tickets and make travel arrangements without the necessary government forms being filled out well in advance. A transition is similar to a campaign in that it is very time-compressed and plans change constantly. It is extremely difficult to comply with the paperwork required by GSA in regard to travel and rental car arrangements. In addition, many transition personnel are unfamiliar with government regulations and tend to travel first and submit claims later.

There are, however, several ways to work within the GSA system in emergency situations. The GSA Assistant Administrator of Budget and Programs is permitted to issue blanket travel authorizations to certain individuals to obtain travel tickets at their convenience by using a major credit card. The individuals still must submit travel vouchers upon completion of the trip and must adhere to GSA travel regulations. An additional alternative would be for the Assistant Administrator to issue a book of blank GTR tickets (Government Travel Requests) to one individual who would be responsible for maintaining strict controls.

The GSA travel office has the facilities to arrange transportation and obtain tickets for official travel, if desired. Tickets must be picked up at the GSA office since delivery service is not available.

Travel advances may be obtained from the imprest fund in an amount not to exceed allowable reimbursable expenses. GSA has per diem limits for various cities with the highest now being \$75.00 per day for lodging and meals. GSA applies this limit to all transition personnel, including the President-elect and the Vice President-elect. Because the advance team and other personnel generally stay in the same hotel as the President-elect or Vice President-elect, the per diem is simply insufficient to cover costs at the hotel where the party is staying. Private funds were therefore used on occasion to supplement the government per diem rates.

Transition employees, when on government travel orders, are entitled to any government transportation or lodging discounts which might be available.

Military aircraft are available for use by the President-elect on a reimbursable basis. The White House military liaison office can be contacted for scheduling and assistance.

In 1976-77, the transition account paid for the entire cost of the military aircraft used and collected a pro rata share from the Secret Service and members of the press who traveled on the aircraft. In a 1977 audit, however, the GAO decided the Transition office had no authority to retain and use such collections, and they should have been paid directly to the United States Treasury. To avoid a similar problem in 1980-81, the Reagan transition team negotiated an agreement whereby the Department of Defense billed each passenger group for its pro rata share on each military flight, thereby debiting the transition fund only for the transportation expenses of the Transition team members.

## 9. USE OF SPACE AND EQUIPMENT IN THE DEPARTMENTS

One problem faced during the transition was whether the government should be reimbursed from public transition funds for the incoming team's use of space, equipment, and services in the departments and agencies.

It was especially difficult to segregate and allocate expenses to the transition at the department and agency level. There was also no uniform administrative guidance on the manner in which expenses should be reimbursed, other than to use the "rule of reason" or "availability basis" formulas.

The absence of specific allocation criteria left the issue primarily in department and agency hands. Generally the departments and agencies worked matters out in a satisfactory, amicable manner with the transition teams, though decisions were uneven, inconsistent and arbitrary. Given that the question is somewhat recondite, since only internal accounting is involved, it may not be worthwhile to focus on changing this situation in the future through more specific GSA guidelines or alterations in the Transition Act. (This subject is discussed in the Recommendations, Section X, Issue No. 14.)

### *G. Preparing for White House Operations*

The White House is uniquely different from the departments and agencies for transition purposes, in that it is completely under the direction and control of the President and his team immediately after the Inauguration. Virtually no one from the former President's professional staff remains on duty, or even on call, after January 20. Continuity exists only in administrative services. Therefore, the new White House staff must be thoroughly organized in advance, and ready to operate at full speed the moment the official transition period is over.

The Executive Office of the President (EOP), which in 1980 comprised 11 distinct units with their own budgets and statutory authorization, does bring some continuity to the staff supporting the President and the White House. In addition to the White House Office and Executive Residence, and the Office of the Vice President, the 1980 EOP included:

- Domestic Policy Staff (DPS)
- National Security Council (NSC)
- The Office of Management and Budget (OMB)
- Council of Economic Advisors (CEA)
- Council on Wage and Price Stability (COWPS)
- Office of the U.S. Trade Representative (USTR)
- Office of Science and Technology Policy (OSTP)
- Council on Environmental Quality (CEQ)
- Office of Administration (OA)



As an Associate Director of the Transition and head of the Office of White House Planning, James Baker III coordinated all matters dealing with the transition of the White House and the Executive Office of the President. Among the first steps was to talk with previous staff directors including Donald Rumsfeld, Richard Cheney, Hamilton Jordan and Jack Watson to get the benefit of their experience in organizing the White House. On November 15, Baker set up 20 transition teams with responsibility for preparing management document reports on the White House and the Executive Office of the President (Appendix DD). The staff assigned to these transition teams provided management and organizational information, recommendations for job slots which needed to be filled immediately, and identified both long and short term policy issues. There were also a number of issues concerning international, domestic, and economic affairs which were identified and which would probably have to be addressed by the new Administration within the first 100 days (Appendix FF).

## 1. STAFFING AND ORGANIZATION

The White House transition concentrated first on White House organization and staffing drawing heavily on in-depth evaluations of the structures developed under Presidents Nixon, Ford and Carter. A large number of resumes for White House jobs were collected, and complete recommendation and information files were created for selected individuals. Any resumes which were not used were returned to the Presidential Personnel Group. White House support positions were mostly filled after January 20.

Following interviews and evaluations of most of the incumbent career White House staff, a decision was made to replace the majority of the career White House staff, in order to give the new Administration a freer hand than its predecessors had in organizing the White House.

Titles, salaries, and protocol ranking have varied by Administration, and substantial attention was devoted to these questions for senior professional positions. Protocol order for White House officers has generally been: Counsellor; Assistant; "Assistant for"; Deputy Assistant; and Special Assistant (Carter ranked Special Assistants senior to Deputy Assistants). The pay levels of Deputy and Special Assistants have varied; generally Deputy Assistants have been paid at Level IV or higher and Special Assistants have been paid at rates anywhere from GS-18 to Level III.

A tabulation of titles for the Carter (1980), Ford (1976), and Nixon (1972) Administrations in relation to the proposed Reagan Administration title structure was drawn up as follows:

TITLES				
Title	Reagan	Carter	Ford	Nixon
Counsellor to the President	1	0	3	3
Assistant to the President or Equivalent	2	1	1	4
Assistant to the President for (specialized area) or Equivalent	10	12	7	5
Deputy Assistant to the President or Equivalent	17	21	10	13
Special Assistant to the President or Equivalent	4-9 (for interest groups)	18	17	15
TOTAL	38-43	52	38	40

Pay equivalent levels for the Carter Administration and proposed Reagan Administration were as follows:

#### EQUIVALENT LEVELS

	Ex. Lev. II	Ex. Lev. III	Ex. Lev. IV	Ex. Lev. V	GS 16-18
Authorized Level	25	25 plus any unused from the 25 authorized for E.L. III			50
Carter	14	10	13	4	21
Proposed Reagan	13	14	10	0	20
Reagan Pool	(2)	(1)		2	2

## 2. ACCESS TO SPECIAL FACILITIES FOR THE PRESIDENT-ELECT

Traditionally the incoming President has stayed at Blair House when visiting Washington and used that facility as a base of operation and an office from which he conducts conferences and other business. Blair House was made available to President-elect Reagan from the time of his election to the time of his Inauguration.

Camp David is administered through the Office of the President. It usually is not available for use by the incoming Administration until after the Inauguration, but special circumstances could justify its use in the future if the outgoing President agrees. A notebook is available at the White House describing the facility and its services. Each Administration must establish policies for use of the facility and this is a matter which the transition team may review for the President-elect.

## 3. WHITE HOUSE AND EXECUTIVE COMPLEX OFFICE SPACE

The task of recommending space and assignments in the White House, and in the Executive Office Building next door, is a difficult and sensitive one, and the ultimate decision on who is assigned White House space will undoubtedly be left to the President-elect. To expedite the process, the transition team should request from the White House Administrative Office copies of floor plans and room diagrams in the White House. Appropriate recommendations and assignments can thereby be made in advance of January 20. Some moves may take place on the afternoon of January 20.

The Carter White House provided floor plans of the White House from previous administrations, which are included at Appendix EE. In addition to the White House, floor plans were also provided for the Old Executive Office Building, the New Executive Office Building, and the Jackson Place townhouses.

A facility around the corner from Blair House at 716 Jackson Place, N.W., has been designated for use by former Presidents. The property meets the requirements for Presidential security and has bedroom, dining and office facilities located within it. President Ford used 716 Jackson Place on every visit to Washington after he left office, and used the facility for six weeks as the central outgoing transition office in 1976-77.

#### 4. EQUIPMENT INVENTORY

The White House complex, including the Executive Office Buildings, is unique from the standpoint of property accountability. Office equipment, furniture and furnishings are moved freely from office to office within the White House, and sometimes between Executive Office Buildings and the White House. It can be expected that GSA will inventory the furniture and equipment; if not, the incoming transition team should request an inventory.

#### 5. WHITE HOUSE PERQUISITES

There are a number of White House "perks" for staffers, but four of them will be highly sought after and preliminary decisions must be made to prevent overuse and confusion. These are White House mess privileges, access to vehicles, parking, and installation of White House telephones in staff members' residences.

Other more selective perks are portal-to-portal service, use of Camp David, and use of military aircraft while on official business.

#### 6. NATIONAL SECURITY CLEARANCES

National security clearances for access to sensitive material and locations can easily prove to be a bottleneck, and it should be one of the first transition assignments made. The President-elect and his Senior Staff should determine prior to election day the individuals who will need security clearances in the transition and the Administration, with a conscious effort to keep the number as small as practical. Key aides need to be cleared to receive information of a sensitive nature.

Routine clearances for passes to be issued for access to the White House and Executive Office complex can be obtained fairly quickly, but security clearances for matters relating to national defense can take four to six weeks. The incoming Administration is also inevitably aware that the incumbent controls the sensitive background investigations of key incoming staff, and worries about possible political risk from that fact.

The individual assigned to coordinate security clearances should work closely with the liaison agent of the FBI stationed in the White House. He is the principal source of contact to expedite clearances for other members of the transition team. (The Department of Defense can grant its own clearances and there is an officer in DOD to contact in reference to these matters.)

Persons who currently hold or recently held national security clearances (e.g., staff members of legislative committees, or individuals who have formerly held security clearances) have a distinct advantage for early national security assignments because their clearances can be updated very rapidly.

During the Reagan transition, all transition personnel received preliminary FBI name checks based on their date and place of birth, social security number, and current address.

A deliberate decision by the Transition Director that full background checks would not be done on any individuals until they become permanent White House staff numbers drastically cut down on the number of unnecessary full background investigations which the FBI had to conduct.

One week before the Inauguration approximately 200 temporary White House I.D.s (effective January 21) were issued by the Secret Service. Each of the individuals receiving the White House temporary I.D.s had to be fingerprinted and photographed by the Secret Service before the I.D. could be issued.

In addition to this, a building access list was given to the Secret Service for those who had not already received temporary I.D.s prior to January 21.

## 7. MILITARY LIAISON

Because many of the support elements in the White House are run by the military, extensive coordination with the White House military office is advisable in the transition period. For instance, the White House Staff Mess is a Navy installation, and the White House Garage is a joint service activity with the drivers being active military enlisted personnel. The White House Communications Agency is a joint service operation that provides telephone, audio-visual, public address, filming and audio-taping services. During some Administrations, the Naval aide assigned to the White House has assumed responsibility for oversight of Camp David. Air Force One, HMX 1, and the Medical Unit are also under military control. Military social aides function as escorts and ushers during White House functions.

Traditionally, a President has had three mid-level rank military officers (Major/Lieutenant Colonel, or Lt. Commander/Commander), one from each of the military services, to serve as military aides to the President. During the second week in January, two briefings on military emergency systems and chains of command were held for the President-elect and Vice President-elect and top staff members.

## 8. CORRESPONDENCE OFFICE

Because the Correspondence Office is the largest office in the White House, employing 139 individuals during the Carter Administration, and also a valuable political and public relations resource, the Reagan transition placed high priority on establishing an efficient organization to handle correspondence in the White House. It is easy to underestimate the amount of mail which the White House receives. The President-elect received approximately 4,000 letters each week during transition. It was estimated that the President would receive approximately 40,000 each week after the Inauguration, but the actual figure jumped to approximately 120,000 (partly as a result of the assassination attempt in March). During the first few weeks after the Inauguration, the correspondence unit handled more than 200,000 carry-over letters from the transition and the Inauguration.

The appointment of a Director, Assistant Director of Issues, Assistant for Staff Liaison, and Comment Office Supervisor therefore need to be accomplished quickly to ensure a continued smooth correspondence operation. A reply book of cleared standard responses and pertinent reference material on the President and his family should be made available to the Correspondence Office. Standard cards for greetings and special messages should be printed.

### *H. Support of the President-Elect*

Michael Deaver, who had a long-standing personal association with the Reagans, was designated Deputy Director, President-elect Support. Deaver supervised the travel schedule, logistics, and personal services staff during the transition, as he had in the campaign. Deaver generally traveled with the President-elect and supervised the California operations.

The President-elect scheduled two pre-Inauguration visits to Washington, primarily to consult with his incoming Cabinet and to lay the groundwork for his initial actions as President, particularly with reference to economic recovery.

## *I. Field and Regional Transition Operations*

During President-elect Reagan's transition, there were no regional or field operations on a permanent basis. All regional and field activities were monitored through their headquarters operation in Washington, D.C. In the several cases where it was necessary to survey an agency headquartered outside of Washington, transition teams traveled to the agency. The teams spent several weeks at the agency and then returned to Washington.

While it might be advisable to have regional transition teams, the cost is too great to be borne under the current funding provisions. One possible method of involving government units outside Washington is for the outgoing department and agency heads to make special efforts to keep their respective field units well informed of events in Washington, and to invite their recommendations to the incoming leadership. The establishment of field advisory committees is another possibility.

## CHAPTER VII.

# DIRECT CONTACTS BETWEEN PRESIDENT AND PRESIDENT-ELECT

### *A. Courtesy*

Formal meetings between the President and President-elect are limited by tradition to a White House visit by the President-elect the week before Thanksgiving, and the outgoing President's appearance at the Inaugural ceremony on January 20. The first meeting may be initiated by either the President or the President-elect. It is initially a private affair in the Oval Office with no press or staff present. The Chiefs of Staff may join the meeting later. The President usually gives the President-elect an advance agenda of topics he intends to discuss, and the President-elect may also submit an agenda.

Prior to the meeting, their staffs should furnish both the President and President-elect a detailed status report on the transition, and matters which the respective transition teams need raised.

While this meeting is taking place, it is customary for the First Lady to show the wife of the President-elect the living quarters of the White House. At the conclusion of these meetings, the Presidential couples may convene in the Oval Office for a brief photo session with the White House press corps.

### *B. Necessity*

In the modern day of frequent international crises, events may occur during the transition which require consultation between the President and President-elect. Compared to the domestic arena, foreign policy-making is relatively reactive and uncontrollable. The time and meter of international affairs does not fit neatly into the four-year rhythm of the American Presidency. Oftentimes events develop internationally during a transition which may require consideration of a joint position by the incoming and outgoing Administration. Therefore arrangements should be made early in the transition to establish quick, reliable means of communications when they are needed.

This is not to say that contact will result in mutual agreement. Wilson refused Taft's request to cooperate in protecting American interests during the 1913 revolution in Mexico, and Franklin Roosevelt refused to get involved in Hoover's efforts to deal with the default of British and French war debt or the pending banking collapse. In 1952, Truman asked Eisenhower for his support on the issue of forced repatriation of prisoners in the Korean armistice negotiations. Eisenhower refused to give his endorsement until after his Inauguration, and further stretched the incumbent Administration's patience with his secret trip to Korea.

In the Carter-Reagan transition, the outgoing Administration was embroiled in intense negotiations to free the American hostages in Iran. In order to discourage the Iranians from "holding out" for the new President, President-elect Reagan cooperated closely with the outgoing Administration. He issued strong statements to squash any speculation by the Iranians that they would be able to get a better bargain by waiting until after the Inauguration.

Most Presidential transitions are therefore affected in some way by international developments. The outgoing Administration, perhaps more sensitive to the issues and the need for a unified position between the President and President-elect, often attempts to elicit support for its policies by the incoming team. Conversely, the President-elect is hesitant to be drawn into a policy role before he has the authority and staff support to establish a position he can sustain for the long term.

## CHAPTER VIII

# THE TRANSITION TO FIRST LADY

At the same time that the President is turning the machinery of state over to the President-elect, the First Lady is handing over her household. She has lived in a national shrine, and her stewardship of it will be exposed to the scrutinizing eye of the press, a new staff, and the wife of the President-elect with whom she has had traditionally little contact.

The transition is also a challenging time for the wife of the President-elect. Immediately after the election, the press and the public focus a spotlight on the woman who will soon become First Lady — on her personal style, her attire, her domestic taste, and her interest in social causes. She must make plans and decisions, but until January 20, she and the President-elect are dependent on the graciousness of the President and the First Lady in many potentially intimate matters.

The wife of the President-elect must receive and assimilate a variety of special briefings during the transition on such matters as diplomatic protocol, congressional relations, White House procedures, and personal security.

To make the sweeping transition from wife of the candidate to wife of the President, she needs the help of a discreet and understanding staff of her own, as well as a constructive relationship with the staff who have had many years of experience in the day-to-day functioning of the White House residence.

### *A. The Chief Usher*

The Chief Usher is responsible for the operation of the White House as a domicile and the comfort and privacy of the First Family and their guests. He is responsible for the maintenance and preservation of the Executive Mansion and its furnishings. He supervises the staff of chefs, butlers, maids, housemen, and florists. He organizes White House facilities for Presidential ceremonies and social functions. In that context, he supervises a calligraphy office for invitations, programs, menus, and placecards, and maintains a current protocol list for official American guests. (The State Department provides protocol advice on foreign visitors.)

In preparation for taking over the White House domicile, Mrs. Reagan talked by telephone with former First Ladies about the quarters, redecoration, interim and permanent staff arrangements, and entertainment responsibilities. On November 10, she telephoned Rex Scouten, the White House Chief Usher. Following a meeting with Mrs. Carter and a tour of the White House family rooms and tea as her guest, Mrs. Reagan met with Mr. Scouten for discussions of household issues and a tour of the public rooms. While the Carters were at Camp David in December, they turned over the White House to the Reagans for a more leisurely inspection and private discussion with the Chief Usher and his staff. Mrs. Reagan, either personally or through Nancy Reynolds, was in touch with the Chief Usher two or three times each week by telephone throughout the transition. Since the outgoing Presidential family, by tradition, does not relinquish their quarters until 10:00 a.m. on January 20, the Chief Usher is under severe pressure to make precise arrangements for installation of the new President's furniture in time for their return from the Inauguration.

### *B. Curator*

The Curator of the White House provides the wife of the President-elect with information about the history and furnishings of the White House. He is able to obtain, on loan, valuable works of art from

museums and private collections for display at the White House. He is also a board member of three non-profit organizations with which the First Lady will need familiarity:

1. *Committee for the Preservation of the White House.* The First Lady is honorary chair of this Committee, created by Executive Order, that oversees additions to the White House collections and changes in the decor of public rooms.
2. *White House Historical Association.* The Association was established to foster understanding and appreciation of the history of the White House.
3. *White House Preservation Fund.* The Fund was established to raise \$25 million or more to purchase works of art for the White House.

### ***C. First Lady 's Staff***

Perhaps even more than the President's staff, the staff of the First Lady and its organization reflects highly personal and individualistic needs. Mrs. Reagan took great care in selecting staff both for the transition and for the permanent East Wing operation.

During the early part of the transition, staff assistance for Mrs. Reagan was consolidated with the President-elect's at their home in Pacific Palisades, California. Activity gradually built up in Washington, particularly with reference to the Inaugural events, the move from California, and selection of a permanent East Wing staff. Nancy Reynolds was in charge of the Washington staff during the transition, and conferred frequently with Mrs. Carter's staff director.

The staff was composed mostly of volunteers, though seven staff members were budgeted to be paid from transition funds (see Appendix GG). Besides the personal expenses budget, there was no operating expense budget which was occasionally a cause for minor confusion. Three rooms at transition headquarters were set aside for the 7 or 8 staff members there. This space was inadequate, particularly for the conduct of interviews.

Peter McCoy was appointed permanent chief of staff in mid-December. He took care to select candidates appropriate for this organization rather than for the different set of assignments held by the outgoing staff. Special attention was given to scheduling, correspondence, special projects, and press operation. Approximately 182 persons were interviewed for 17 permanent positions. Mrs. Reagan herself interviewed the top candidates and made final selections.

### ***D. Press***

The press was eager for interviews with Mrs. Reagan and for information about her. While she was in California, as she was during most of the transition, there was a heavy demand from the press for information about her from the Washington press corps. The Washington press office scheduled more than a dozen press interviews with publications and columnists during Mrs. Reagan's two visits to Washington before Inauguration week. The staff was kept busy responding to questions from the press. A compilation of personal data was developed since many of the questions were duplicative.



### *E. Correspondence*

During the 1980-81 transition, the staff recognized the importance to the wife of the President-elect of an efficient correspondence answering operation. At the outset, mail was arriving at Pacific Palisades, transition headquarters, campaign headquarters, Blair House, and 716 Jackson Place. When the Washington transition staff formed a correspondence unit on December 5, mail volume increased steadily from several hundred letters per week to over 1,000 during several of the heavier weeks. With the help of volunteers, two typists, and form letters appropriate to the most common messages (e.g. congratulations, interview requests, prayers, job seekers), correspondence was brought under control. The transition also allows valuable planning time for deciding on post-Inaugural handling of the First Lady's mail, special dates of heavy volume such as birthdays, Mother's Day and Christmas, and size and design of stationery, typewriters, etc.

### *F. Special Projects*

It has become customary that the wife of the President-elect have certain special interests or causes, even if she has no intention of filling a political or policy role while in the White House. The transition offers time to consider this aspect of the First Lady's role, and indeed by mid-December there was an appointed Director of Special Projects for Mrs. Reagan. This permitted the conduct of useful research on two areas in which Mrs. Reagan had a special interest — the Foster Grandparents Program, and programs for Drug and Alcohol Abuse.

A special project that can benefit enormously from the attention of the wife of the President-elect in the transition period is planning for the Inauguration and the dozens of social and ceremonial events accompanying it.

## CHAPTER IX

# REFLECTIONS ON COOPERATION BETWEEN INCOMING AND OUTGOING ADMINISTRATIONS

The experience of the 1980-81 transition teams emphasizes the need for establishment of a close working relationship between the incoming and outgoing Administrations very early in the transition period. The efficient transfer of power requires constant two-way communications at all levels, as well as a recognized and regularly employed channel of conflict resolution.

On the daily working level during the Carter-Reagan transition, the primary avenues of communication between the President-elect's transition staff and the departments and agencies were the *decentralized* transition teams. These teams both collected information for the President-elect's staff and provided the departments and agencies with guidance regarding intentions of the transition leadership.

To handle major issues and work out generic differences which could not be handled at the transition team level, a higher level of communication between Administrations was established. This link provided the direct daily contact between the Administrations at the leadership level. President Carter's and President-elect Reagan's designees met regularly to discuss areas of actual or incipient differences. Differences included not only policy decisions dealing with major issues, but also daily operational differences and personnel problems. When an issue arose which could not be handled at a lower level, it was moved progressively higher until it was satisfactorily resolved.

Even with the best planning and cooperation between the transition teams, many urgent and unexpected problems will develop which require immediate attention from transition leaders. The transition period is particularly fertile soil for rumors which may embarrass either team — and relations between them — if not quickly quashed.

In 1980, William Timmons and Harrison Wellford operated an informal hotline for reporting and managing daily transition crises. The key to this relationship was the tacit understanding that information from these contacts would not be used for partisan purposes. Confidentiality was respected on both sides. As a result, the two recent adversaries were able to cooperate in firefighting and rumor control to the benefit of both teams.

For example, this process was used to work out differences of opinion over the scope of the transition team activities in the departments. It was also used to discuss personnel actions as well as contract and grant awards during the transition. Without this established and tested avenue of communications, many areas of differences between the two Administrations would have been difficult to work out and might have flared into counterproductive confrontation.

The governmental resources that formally changed hands on January 20, 1981, were the largest ever transferred from one political authority to another. The 1980-81 transition apparatus that arranged the transfer in a hectic 77 days was correspondingly larger than any that had preceded it. This record has necessarily centered on the often mundane details that occupied hundreds of men and women in and out of the government. Despite the long hours and difficult tasks, the participants felt privileged to be witnesses to a uniquely democratic event that is as momentous in its importance as it is sensitive and difficult to bring to a successful conclusion. President Reagan, on January 20, 1981, was fully prepared to act with forcefulness and foresight in carrying out his new duties. That he was is a tribute not only to a meticulously planned and efficiently organized transition operation carried out by his hundreds of transition personnel, but also to the spirit of constructive assistance that the outgoing

Carter Administration applied to their equally challenging though quite different set of transition responsibilities.

With the exception of the disputed election of 1876, the U.S. Government has changed hands for over 200 years without a serious challenge to the power and legitimacy of the new President. We hope and expect that future transitions will continue to be periods when partisan passions are put aside and former adversaries work together as citizens in a common endeavor to ensure a calm and responsible change of power.

## CHAPTER X RECOMMENDATIONS FOR THE FUTURE

The preceding sections of this report have aimed to provide future transitions with a familiarity of the principal events, arrangements, and problems involved in the Carter-Reagan transition of 1980-81. This final section outlines some of the transition issues jointly identified by the Carter-Reagan working group on the basis of their experience, and makes certain recommendations that the Executive Branch and Congress may wish to consider in reviewing the Transition Act and related legislation.

### ISSUE NO. 1

What is the appropriate size of a transition in terms of staffing and other support?

#### DISCUSSION

Over the years, the size and scope of Presidential transitions have kept pace with the growth of the Federal Government. Accordingly, staff size and information exchange reached new summits in the 1980-81 transition. This, in turn, increased the potential for conflicts of interest, security leaks, internal dissension, unauthorized contacts, and other general operating confusion. The increased size and scope of the transition effort is therefore not without costs and risks.

One way to mitigate these risks is to amend the Transition Act so as to curtail staff size. A leaner staff with reduced information requirements might reduce the potential for confusion and improprieties.

This proposal presumes, however, that effective transitions can necessarily be managed with smaller staffs. It further presumes that the risks of managing a larger, more sophisticated transition are not in fact more than offset by the benefits. Finally, the proposal would impose arbitrary, and perhaps impractical, constraints on the President-elect. Staff limitations would be particularly difficult to specify given the ambiguous status of volunteers, part-timers, advisors, and other non-salaried staff.

There is no denying that risks increase with larger transition staff size. But these risks can be controlled. Self-imposed conflict of interest guidelines, well-promulgated organization charts, up-to-date lists of authorized transition team members, strict security clearance procedures, and good communication with the outgoing transition team are but a few ways to minimize these risks.

#### RECOMMENDATION

*No restrictions should be placed on the President-elect's transition staff size. The President-elect should have the flexibility to plan ahead to Inauguration Day, when he assumes power, as he deems fit. To establish an arbitrary staff limit is to ignore the constantly changing size, scope and complexity of the Federal Government and the transition process itself.*

### ISSUE NO. 2

What is the appropriate level of government funding for the transition, and is it appropriate to supplement Federal funds with funds from private sources?

## DISCUSSION

The Transition Act of 1963, as amended, now provides \$3 million in public funds for the transition. Of this amount, \$2 million is earmarked for the President-elect and \$1 million is allocated to the outgoing President. These amounts were established for the 1976-77 transition, but were not adjusted by Congress to reflect inflation and the increased complexity of the Executive Branch.

Any question of funding for the transition must necessarily address its essence. The objective of the transition is to reconcile changed political power with Federal institutional power. However, the incoming team staff members are not government employees; nor is the incoming team authorized to speak on behalf of the incumbent government; nor is the transition team subject to all of the limitations, rules and procedures imposed on the Executive Branch. The transition is therefore a quasi-public organization.

Recognizing political realities and the need to provide assistance in its own interest, the Federal government has been willing to underwrite the cost of the transition within the limits of its own budget. Private sources of funds may also be tapped to supplement public funds given the quasi-public status of the transition.

There are, of course, greater risks and the potential for embarrassment to the President-elect in using private funds. If private funds are raised and spent, a system should therefore be established to assure that legal and ethical standards are adhered to, and that the funds are spent on legitimate transition purposes.

## RECOMMENDATION

*Federal funds should continue to be appropriated by Congress for the Presidential transition. The amount of funds should be reviewed in the year prior to the election in the context of inflation, government size, prior Presidential transition experiences, and new laws affecting the process.*

*The flexibility to raise and spend private funds in the transition should be continued. These funds should not, however, be commingled with public funds. Separate controls and accounting should be maintained. It is further advisable for the President-elect to establish his own limitations on the size of any single contribution. He may also wish to establish his own internal guidelines on expenditures and provide for a private audit of those expenditures.*

## ISSUE No. 3

Should further limitations be imposed on incoming transition team members to mitigate potential conflicts of interest?

## DISCUSSION

The President-elect's transition team may include a few persons who potentially stand to gain from access to proprietary or confidential information. It could be argued that all transition team members should therefore be subject to Federal ethics and disclosure laws. This proposal could, in turn, be disputed by citing the following arguments: 1) it is administratively impractical to impose present Federal ethics and disclosure laws on an operation as necessarily fluid and transient as a Presidential transition, 2) the potential embarrassment to an incoming Administration from not policing its own affairs is enough to prevent any serious ethical situations from developing, and 3) ethics law, by discouraging or impeding the availability of outside expertise, would add greatly to the difficulty of conducting an effective transition with its strict time requirements.

## RECOMMENDATION

*It is recommended that the President-elect establish his own policies and procedures regarding conflicts of interest as early as possible in the transition. This will reduce the risk of future embarrassment for the President-elect and avoid the need to extend the somewhat burdensome Federal ethics laws to the transition process. While the objectives of the Federal ethics laws clearly have a place in the Presidential transition, the specific rules and administrative requirements of these laws would run counter to its character and fluidity.*

## ISSUE NO. 4

Is it appropriate to include the independent regulatory commissions in the Presidential transition?

## DISCUSSION

There is a perennial debate between Congress and the Executive Branch over whether the independent regulatory commissions are units of the Executive Branch or arms of the Legislature. In the past, some Presidents-elect have deferred to Congress and viewed the independents as out of bounds for an Executive Branch transition. Others, including President-elect Reagan, have dealt with the independents in much the same manner as regular units of the Executive Branch.

The argument for exclusion makes the point that the independent commissions, being directed by a plural membership serving fixed terms, are often not immediately affected by the change in Administrations. The commissions are also quasi-judicial bodies dealing with sensitive adjudications. In the past, Congress has expressed concern that transition personnel operating outside the formal restraints of Federal ethics laws may, by design or inadvertance, compromise pending cases.

In contrast, those who believe that the independent commissions are arms of the Executive Branch believe strongly that they should be included in the transition. This is necessary to prepare the President-elect to make budget proposals and personnel appointments affecting the commissions. The Paperwork Reduction Act of 1980 further requires that the Administration have an understanding of the informational and regulatory paperwork burdens imposed by the independent commissions. In order to meet these responsibilities, the incoming Administration should understand the policies, problems, and membership of the independent commissions.

## RECOMMENDATION

*The budget, personnel, information and regulatory responsibilities of the Executive Branch suggest that the President-elect should have the opportunity to extend the transition to the independent agencies. Special care should be taken by the incoming Administration to keep its independent agency transition teams under tight control. Details of specific adjudications or proprietary commercial data should not be shared with the incoming team. The incoming team will want to police carefully its own internal conflict of interest procedures for transition personnel assigned to the independent commissions, given congressional sensitivity to their unique status and the vulnerability of their quasi-judicial activity to compromising situations. The outgoing Administration may also play a vital role in advising and mediating between the commissions and the incoming Administration transition teams.*

## ISSUE NO. 5

Should a freeze be placed on all Executive Branch hiring and SES appointments during the transition?

## DISCUSSION

One of the more sensitive issues in a transition is the outgoing Administration's hiring, transfer, promotion and appointments policies. On one hand, a key objective of the transition is to minimize disruption of government operations as a new President assumes responsibility. On the other hand, the incoming transition desires as much flexibility as possible in shaping the next Administration, especially in personnel matters. The incoming team is thereby extremely sensitive to conversion of non-career and other political appointees to career SES and other high GS-level positions, as well as to agency over-hiring as a buffer against later cutbacks in personnel. This sensitivity is further exacerbated by the diminished ability of a lame duck President to control hiring and other key personnel matters.

## RECOMMENDATION

*Despite the best efforts of an outgoing Administration to curtail over-hiring and to ensure the merits of senior appointments, the specter of patronage and partisanship can have a serious effect on the transition process. Undue tension and mistrust can result, which can encroach on other areas of the transition.*

*In recent years, it has become standard operating procedure for an incoming Administration to impose a hiring freeze immediately after the Inauguration. The freeze is usually a temporary one extending to all Executive Branch functions not involved in the preservation of human life or with the national security. It is recommended that such a freeze be initiated by the outgoing Administration to take effect immediately after Election Day, with the exceptions set out above plus extreme hardship cases. A similar freeze should be imposed on all promotions or transfers involving conversion of non-career Federal employees to permanent positions. The cost of the freeze in terms of disruption and loss of momentum would be real, but it is a relatively small price to pay for removing this constant source of mistrust.*

## ISSUE NO. 6

Should the outgoing President be required to submit his budget proposals to Congress?

## DISCUSSION

A lame duck President is faced with a difficult choice regarding the budget. His proposals will be immediately amended by the incoming Administration. It is therefore questionable whether the outgoing Administration should develop a policy budget or one that simply extrapolates the budget at its "current services" level. A policy budget can be an important legacy, or even a basis for future opposition. However, by developing a policy budget and tying up OMB's staff through the New Year, precious time and staff energy is lost to the new Administration in developing its own budget. The Congressional Budget Act, by pushing budget deadlines up to early spring, has further increased the costs of this delay.

## RECOMMENDATION

*In order to release the OMB staff and other budget apparatus at a much earlier date, it is recommended that future outgoing Presidents be required only to submit "current services" levels of spending to Congress. This budget can serve as a benchmark for the next Administration. If the outgoing President wishes to recommend new policies or make programmatic changes, he can supplement his "current services" figures with an overview budget message prepared by his policy staff. This message could further be incorporated into the outgoing President's State of the Union message. The outgoing President can thereby review his past accomplishments and suggest a roadmap for future opposition without delaying the preparation of the new Administration's budget.*

### ISSUE NO. 7

Is the transition period too long? Should it be shortened and the Inauguration of the new President accelerated?

#### DISCUSSION

The nearly three-month Presidential interregnum can seem interminable as political power and public attention shift into the hands of the President-elect immediately after Election Day. Perhaps institutional power should follow much sooner thereafter and be coincident with the opening of a new Congress. This would still give the President enough time to nominate his key Cabinet members and to develop his major policies.

The third month of the transition may, in fact, not only be unnecessary, but disruptive. A "transition within a transition" may occur as new Cabinet members are designated. At that time, existing department transition teams are often disbanded and their reports discarded. Sometimes a Secretary-designate forms his or her own transition team and the process begins all over again.

The "transition within a transition" phenomenon may also be cited, however, to justify a longer transition period. The art of transitioning has evolved and broached into areas beyond the immediate policies and functions of the Presidency. It now extends into the Executive Branch departments and agencies. Enough time should be allotted for Cabinet and agency head designees to begin to identify major issues for themselves, and to recruit key staff members.

Finally, it should be noted that the 1980-81 experience suggests that new ethics, financial disclosure and background investigation requirements make it far more difficult and complicated to form a new Administration. These factors, coupled with relatively low executive salaries and the current lack of esteem for public service, make it quite difficult and time consuming to attract qualified candidates into many sub-Cabinet positions.

#### RECOMMENDATION

*The status quo should be maintained, but only because of the impracticality of amending the Constitution once again and the bottleneck caused by cumbersome ethics laws, low executive pay, and other disincentives to public service which slow the nomination process. True political power shifts on Election Day. The formal, institutional power of the Presidency should ideally follow as soon as possible thereafter.*

### ISSUE NO. 8

Should members of Congress and other congressional staff be permitted to serve in the Executive Branch transition?

#### DISCUSSION

The principle of separation of powers suggests careful examination of the role of the Legislative Branch in the Presidential transition. Since transition staff members gain access to Executive Branch information that might otherwise not be available to Congress, the incoming and outgoing transition teams may wish to disallow congressional involvement altogether.

Arguing for congressional involvement is the obviously pressing need for expertise. Legislative staff members, in particular, can be an extremely useful resource for an incoming Administration. They



are already well versed in agency problems and opportunities to improve Federal programs. Many congressional staff members also find the Presidential transition to be an excellent vehicle to make a personal career transition into the Executive Branch. The use of congressional staff might also be a convenient tool for establishing future working relationships between the President-elect and his party members in Congress.

#### RECOMMENDATION

*To deny a role for congressional staff in the transition is to forego a unique reservoir of program and institutional expertise. Legislative staff should therefore be permitted to serve in the transition. No staff member should serve, though, in any capacity giving him or her access to information that would not otherwise be available to the Legislative Branch.*

*As a further measure to preserve separation of powers, it is recommended that no member of Congress serve in the transition other than in an advisory capacity.*

#### ISSUE NO. 9

Should the outgoing Administration impose a regulatory freeze immediately after the election?

#### DISCUSSION

The lines of debate for a regulatory freeze are similar to those outlined for a hiring freeze. A major difference rests, however, with the amount of public review and protocol now required to implement regulations. Hiring decisions, even at the senior level, are usually confidential. Regulations, in contrast, follow a formal schedule, requiring promulgation in the Federal Register, hearings, comments, etc. There is less opportunity for an outgoing Administration to "stack the deck" or accelerate regulations to which it is sympathetic.

Proponents of a regulatory freeze point out that many "midnight" regulations are needlessly adopted by the outgoing Administration, many of which are reversed immediately after January 20th. The net effect is that the Federal government appears erratic and confusion results both among the public and the bureaucracy.

#### RECOMMENDATION

*Although a total regulatory freeze after the election might be disruptive to on-going programs, the confusion and waste resulting from regulatory reversals makes some check on midnight regulations highly desirable. It is recommended that future outgoing Administrations require that all regulatory initiatives be cleared with the responsible department head and explicitly approved by the President.*

#### ISSUE NO. 10

How should the incoming and outgoing Administrations cooperate in the development of foreign policy during the transition?

#### DISCUSSION

The pace of international affairs does not necessarily beat to the four-year rhythm of the American

Presidency. In the last 20 years, international crises have frequently boiled over into the transition period, straining the best efforts of the transition teams to maintain a bipartisan appearance of national unity. In those circumstances, the President and President-elect are forced to work quietly together to protect the national interest, as President Carter and President-elect Reagan did successfully during the Iranian hostage crisis.

Unlike the domestic policy area where outgoing Presidents have traditionally been quick to resent any efforts by their successors to become involved in on-going policy before January 20, the international arena is frequently the scene of efforts by the President to draw the President-elect into policy-making, so as to preserve the consistency and continuity of American policy. This view derives from the bipartisan tradition of foreign policy.

The President-elect is thereby faced with a dilemma. Political power has been passed to him, but he lacks institutional authority. The outgoing President, shorn of his political power by the election, seeks popular legitimacy for his policies by trying to identify the President-elect with them.

The President-elect, for good reason, is reluctant to assume any responsibility. He does not want to become implicated in or co-opted by the policies that may have precipitated the crisis at hand. And he may naturally feel that he lacks the familiarity and seasoned staff to allow him to make foresighted and responsible judgments.

The need for the government to speak with one voice in a crisis suggests the need for some cooperation, at least on an informal level. If the outgoing President is sensitive to his successor's concerns, and does not try to take unfair advantage, and if the President-elect keeps a tight rein on his transition team, a bipartisan atmosphere can develop which serves the nation well.

#### RECOMMENDATION

*In foreign policy, the respective transition offices must make every effort to see that the government speaks with one voice. Contacts with foreign heads of state should be kept to a minimum. Transition members should not publicly comment on policy issues and should not make publicized visits abroad. The President should keep the President-elect fully informed on a regular basis and keep foreign policy initiatives to a minimum during this period. If a crisis develops, both must work together to reassure the public, with the President clearly in charge. The goal should be to allow the President-elect to remain one step removed, yet fully informed and prepared to lend his legitimacy to bipartisan initiatives when required in the national interest.*

#### ISSUE No. 11

Should succession laws be reviewed and amended?

#### DISCUSSION

There is little uniformity among the departments and agencies as to who can succeed the appointive head when he or she resigns. The Vacancy Act defines succession quite clearly for the Cabinet and certain agencies involved in the national security. Succession for the other agencies is addressed by either the agency's organic statute, or by an administrative order of succession. In a Presidential transition, outgoing political appointees are expected to submit their resignations. Since the Senate needs time to hear testimony and confirm those designated replacements to assume leadership, there exists a period where acting heads must assume responsibility for the departments and agencies. This period may extend for only a few days, or it may last for months. Problems arise when 1) agencies do not have a clear order of succession, and 2) the new Administration wishes that the acting head execute his official responsibilities (such as a regulatory change, contract award, spending deferral, etc.).

It can be argued that the current *ad hoc* approach to succession is adequate. If there is no clear order of succession, the outgoing Administration can create one in the last month, or the President-elect can issue an Executive order naming an acting agency head. Furthermore, official acts are permitted by an acting agency head, if that individual is authorized to act as the agency head (by the order of succession), and if that individual has had prior Senate confirmation (presumably for some other position in an outgoing Administration).

The rationale for changing succession laws is directed primarily at simplifying the process. Extending the Vacancy Act to all departments and agencies might clarify ambiguous situations and assure that a line of succession exists for all Executive agencies. When the acting head has no prior Senate confirmation, such as the case where the second ranking officer of an agency is a career employee, Congress may wish to grant a grace period, or an exception to confirmation requirements. The acting head can thereby carry out his official duties.

#### RECOMMENDATION

*Congress should review the Vacancy Act with an eye towards extending it to all government departments and agencies. Congress may also wish to review the conditions and authorities granted to acting agency heads.*

*If these issues cannot be resolved legislatively, then it is strongly recommended that future transition teams should begin discussions on succession at least one full month before Inauguration. A list of desired acting heads should be initiated by the incoming Administration. The outgoing transition team should comment on this list (since most will be drawn from ranks of the outgoing Administration) and assist in making sure that acting heads are in place and available to serve after the Inauguration.*

#### ISSUE NO. 12

Should a freeze be imposed on grants and other discretionary spending immediately after the election?

#### DISCUSSION

Many of the arguments applying to the hiring and regulatory freezes also apply to a spending freeze. The only major difference is that regulatory and hiring decisions are not repetitive. Most Federal spending, grants, and awards are small in size and routine in nature. It can thereby be argued that a spending freeze would severely upset the operation of government.

#### RECOMMENDATION

*Close scrutiny of spending is advisable for the same reasons that an outgoing Administration may wish to impose restrictions on regulations and hiring. It is therefore recommended that all major spending initiatives be reviewed and approved by one or two agency administrative levels higher than might otherwise be the case. Tighter controls on spending could avoid potential abuse and embarrassment for an outgoing Administration, and would remove another source of potential friction for the incoming team.*

## ISSUE NO. 13

Should the "routine use" provision of the Privacy Act be extended to the incoming transition team so as to allow access to otherwise confidential government employee personnel records?

## DISCUSSION

Early background information on key career personnel is extremely useful to an incoming department and agency head. This information allows the new head to familiarize himself at an early date with staff experience and capabilities. Once this assessment is made, he or she can better rely on career staff. All too often career staff experience and expertise goes underutilized in the early stages of an Administration. Better sub-Cabinet and Schedule C staffing decisions can also result from an early familiarity with existing career staff capabilities.

Offsetting the benefits of earlier access to confidential personnel information is the potential for abuse. Incoming transition staff members are not official government employees and are not subject to the constraints imposed on senior government officials with regard to confidential personnel information. It is not unreasonable to fear that sensitive personnel information could be used inappropriately for political purposes.

## RECOMMENDATION

*It is likely that both the new Administration and the career staff in general will benefit from earlier, but selective and controlled, access to confidential personnel information.*

*Therefore, the outgoing Administration may wish to allow early access to confidential personnel records by selected persons, subject to a tight set of conditions, under the "routine use" clause of the Privacy Act. These conditions might require that incoming Administration members:*

- 1. be publicly designated to a position that will eventually have access to confidential personnel information;*
- 2. agree to the constraints and rules as if they were government employees with regard to the personnel information they gain.*

*If agreement on a satisfactory set of criteria cannot be reached, which assures that sensitive personnel information will remain properly confidential, then the "routine use" clause of the Privacy Act should not be exercised. Incoming transition teams may then consider asking key senior career employees to waive their privacy rights and voluntarily allow access to their files by the incoming transition team.*

## ISSUE NO. 14

Should the Transition Act be amended to define more explicitly which government expenses should be allocated to the incoming team?

## DISCUSSION

The Transition Act merely states that the incoming transition team should reimburse the government for any expenses incurred by the Federal Government. Questions arose in the 1980-81 transition as to what portion of agency costs should be allocated to the incoming transition. Accounting officers in the agencies wondered whether on-site Reagan transition use of space, secretaries, parking, duplication

and communications should be reimbursed. Several agencies asked for specific guidelines. Independent regulatory commissions, particularly those which voluntarily participated in the transition, stressed the need to be reimbursed for their costs.

While more specific guidelines could be developed, there is a good possibility that they would raise more questions than they would answer. Practically speaking, there is no substitute for the "rule of reason." Further guidance might only give the agencies an excuse not to make their own common sense determinations.

It should also be noted that the government's funds are in effect being spent on itself (i.e. its own transition). Cost allocation, may have little benefit and possibly amounts in the extreme to a superfluous accounting exercise.

#### RECOMMENDATION

*Transitions have generally used space, equipment, personnel, etc., at the departments and agencies on a nonreimbursable basis as evidenced by both the Ford-Carter and Carter-Reagan transitions. It is recommended that this practice continue and that the Executive Branch departments, agencies and transition team personnel simply use a "rule of reason" or availability basis formula.*

*More explicit guidelines might be developed by the GSA separately for the independent regulatory commissions, to encourage their fuller participation in the transition. Such guidelines might call for the allocation of government costs, where they are "material" (greater than some significant, predetermined portion of the agencies expenses), incremental (as opposed to fixed or "sunk" costs), and discrete (easily measurable). But again, above all, the "rule of reason" should prevail.*

#### ISSUE NO. 15

What can be done to facilitate the recruitment of qualified people for sub-Cabinet and other middlelevel positions in the Administration?

#### DISCUSSION

The burdens of Federal recruitment are quickly becoming such that the personnel side of the Presidential transition now begins well before the election. Even with this headstart, backlogs later develop in FBI and IRS background checks, conflict of interest reviews, and confirmations. This can have a serious effect on the success of a transition.

The ethics laws should therefore be reviewed in the context of the government's need to attract high caliber people. Many persons are reluctant to serve because of private sector reentry barriers. Others prefer not to disclose their financial interests publicly, as now required by ethics laws.

Another impediment to recruitment is the "cap" on Federal executive salaries. Relatively poor executive pay makes government service much less attractive than private sector alternatives. The fact that the Federal Government does not pay moving expenses to Washington, D.C. further indicates how Federal compensation policies lag behind the private sector.

The case against making any changes in executive pay and ethics laws for recruitment purposes centers instead on the need to improve the general public's esteem for Federal service. It can be argued that this esteem must be rekindled over time, and the government should avoid other "quick fix" solutions.

#### RECOMMENDATION

*Federal executive compensation and ethics laws are indeed becoming a major impediment to attracting highcaliber people, especially at the middlelevel of an Administration. Both areas should be reviewed by Congress. Greater esteem for public service will never result from attracting anything less than the highest caliber people into the Administration. Salaries, moving expenses, and other elements of the personal compensation package need not be exorbitant to be competitive. Ethics laws need not involve unnecessary personal sacrifice in order to be effective.*

#### ISSUE NO. 16

Should the Freedom of Information Act (FOIA) be reviewed as to its applicability to the transition?

#### DISCUSSION

The incoming transition team is not subject to FOIA requests since it is not a government agency. If an FOIA request is directed to a government agency, however, transition communications become subject to FOIA. The availability of information is therefore wholly dependent on where the FOIA request is directed, rather than the substance of the communication.

This inconsistency is further illustrated by the possibility that information held by the incoming transition team, heretofore not subject to FOIA, becomes subject to FOIA if it is used or referred to later by the new Administration.

It might be said that the current FOIA interpretations are entirely consistent with the dual public-private character of the transition. Alternatively, it can be argued that the inconsistency and confusion surrounding FOIA's applicability to the transition tends to inhibit the free flow and use of critical policy information that would otherwise be exempt from FOIA.

#### RECOMMENDATION

*FOIA should be amended to exempt the transition from its provisions altogether.*

## OTHER RECOMMENDATIONS OF A TECHNICAL NATURE

1. A technicality does not permit the incoming transition team's liability coverage to extend to full-time, but non-salaried transition staff. Many volunteers therefore sign-on as "Dollar-a-Year" staff. The GSA should design an abbreviated compensation form for such volunteers. Under the current system, needless paperwork and administrative expense goes into treating these volunteers as if they were fully salaried.
2. To better accommodate the transfer and momentum of transition operations into the government itself, accounting books for the incoming transition should remain open for 10 days beyond Inauguration. Closing the books on Inauguration Day is not only abrupt, but artificial. Transition operations must in fact be carried on for a short period after the President assumes office. The Transition Act should be amended to permit this.
3. OPM may wish to review and recommend severance policies for all PAs, Schedule Cs and other exempt persons affected by the change in Administration. The transition itself, continuing operating responsibilities, and uncertainty about the new Administration's personnel plans make it quite difficult to plan ahead. The result for many is an abrupt departure from the Federal service on or after Inauguration Day. Perhaps policies can be developed where outgoing Administration employees can receive a two-week severance.
4. Once a new department or agency head is designated, he or she should be placed on consultant status by the agency, along with 1-2 confidential assistants (depending on size of the agency). Sub-Cabinet level appointees should also be placed on consultant status. This would not only financially assist the designee, but would allow him or her earlier access to information that he/she would not otherwise be available for review before confirmation. Consultant status would appropriately constrain the designee to the rules and conditions of Federal employment.
5. As discussed to in Issue No. 15, moving expenses for new members of the Administration are not reimbursed by the Federal government. Moving expenses are only reimbursed to existing Federal employees who are transferred to another Federal assignment. This is still another disincentive to public service that can frustrate the transition. Indeed, even the President's moving expenses must be paid out of his own personal funds. This should be reviewed and the laws amended to allow moving expense reimbursement for the President, his Administration and other Federal executives newly hired into career positions.
6. Per diem rates are not sufficient to cover the expenses of many of the advance personnel traveling with the President-elect. Transition personnel must either be excepted from existing regulations, or private funds must be used to supplement GSA reimbursements.
7. During the 1980-81 transition, Blair House required a deposit in the amount of \$40,000 for its use by the President-elect and his family. GSA has no means for paying this deposit. Deposits were made by the Presidential Transition Foundation, Inc., and later returned by Blair House after GSA had processed and paid the invoices. This transaction should be consumed without the need for private funds.
8. It is recommended that GSA specify that the rent and equipment of the transition office is an item furnished by GSA, so that future transition teams do not consider this in their proposed budget. Charges for both items were in fact waived for the Carter and Reagan transitions, but the matter is not defined in the present regulations and cannot be counted on by transition planners.
9. Very little exists in terms of records or commentary on past Presidential transitions. It is recommended that each new Administration cooperate with the outgoing team in an effort to

collect documents for storage in the Presidential archives. It would also be very useful to future transitions if the two transition teams collaborate later in reporting on the issues and problems that they encountered.