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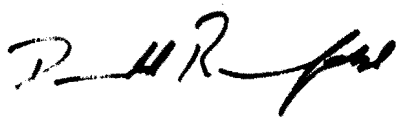
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THE WHITE HOUSE

WASHINGTON

October 10, 1975

MEMORANDUM FOR: ALL EMPLOYEES OF THE  
WHITE HOUSE OFFICE AND  
THE DOMESTIC COUNCIL

FROM: DONALD RUMSFELD 

SUBJECT: Standards of Conduct: Contacts  
with Regulatory Agencies and  
Procurement Officers

The Standards of Conduct for the White House Staff which were distributed on October 28, 1974, bar all ex parte contacts with regulatory agencies and procurement officers unless there is prior clearance with the Counsel's office (par. 11). The prohibition extends to both regulatory agencies which are independent of the Executive Branch and those which are within the Executive Branch. Some agencies have both regulatory and executive functions, and no prior clearance is needed for contacts concerning purely executive matters.

The following breakdown of federal agencies is provided to assist you in determining which agency contacts require prior clearance with the Counsel's office.

1. Independent Regulatory Agencies

(All contacts other than simple referrals of mail must be cleared.)

Civil Aeronautics Board  
Commodity Futures Trading Commission  
Consumer Product Safety Commission  
Federal Communications Commission  
Federal Deposit Insurance Corporation

Federal Election Commission  
Federal Maritime Commission  
Federal Power Commission  
Federal Reserve System  
Federal Trade Commission  
Interstate Commerce Commission  
National Credit Union Administration  
National Labor Relations Board  
National Transportation Safety Board  
Nuclear Regulatory Commission  
Occupational Safety and Health Review Commission  
Renegotiation Board  
Securities and Exchange Commission  
United States International Trade Commission

The foregoing agencies are regarded by the Justice Department as clearly falling within the category of independent regulatory agencies, in that they are both independent and exercise regulatory authority over some class of persons or businesses.

## II. Combined Executive/Regulatory Agencies

(To be treated as independent agencies on matters involving the regulatory functions i. e. , rule making and adjudication):

Environmental Protection Agency  
Federal Energy Administration  
United States Civil Service Commission

## III. Quasi-Regulatory Agencies

The following agencies do not exercise regulatory powers comparable to the independent regulatory agencies but do have comparable independence and should be treated as equivalent to the regulatory agencies with respect to commenting on particular cases, applications and the like:

Equal Employment Opportunity Commission  
Federal Home Loan Bank Board  
Foreign Claims Settlement Commission of the United States  
Indian Claims Commission

Overseas Private Investment Corporation  
Pension Benefit Guaranty Corporation  
National Selective Service Appeal Board

In addition, the ban on contacts extends to the litigating and adjudicatory divisions of the Department of Justice and the IRS.

IV. Procurement Activities

The same rules applicable to independent regulatory functions should be followed with respect to all government procurement activities.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 3, 1975

To: All White House Personnel

Subject: The Standards of Conduct for the White House Staff

Attached are page changes for The Standards of Conduct for the White House Staff, which directly apply to all White House personnel.

The following changes are to be made:

- (a) Replace the current page E-1 with the new page E-1 and note the addition of paragraph 13 in the Table of Contents.
- (b) Replace current page E-8 with pages E-8 and E-8.1. Your attention is invited to new paragraph 13 for your action and information.

All inquiries regarding the above should be directed to the Office of Counsel to the President.

**STANDARDS OF CONDUCT  
FOR THE  
WHITE HOUSE STAFF**

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**1. Summary and General Instructions**

This Standards of Conduct section is distributed to remind and acquaint each employee with the high standards of conduct which are expected of each member of the Administration. The section contains important information to assist in avoiding any conflict of interest or conduct which, although proper in fact, could appear otherwise.

Each member of the staff is to be governed by the rules of truthfulness and personal and professional integrity. This places a special obligation on all personnel to recognize that his or her actions reflect on the Office of the Presidency, and to carefully weigh actions against the highest standards and criteria for conduct in public office. Questions concerning these materials should be discussed with the Counsel to the President or a member of his staff.

Stringent legal requirements governing the standards of conduct and conflicts of interest are applicable to each member of the White House staff. Additionally, all recipients who are em-

ployees (regular government employees) paid at a level equivalent to GS-13 and above, or are consultants (special government employees), regardless of grade or salary, are required by law to complete and file certain forms calling for employment and financial information. (Samples are at Enclosures E-2 and E-3.)

Subsequent to this initial reporting, employees will be notified of the need for a refiling in June of each year. Notification of any interim changes in financial interests or job description, as set forth in the forms, will be required at the initiative of the employee.

Personnel at the White House on detail should look to their respective agencies for any relevant reporting requirements. However, such personnel are subject to the White House Standards of Conduct.

As a general statement of guidance, it might be said that the statutes and regulations which are applicable to you as a member of the staff are directed to insure the achievement of the following objectives:

*others during the period of employment as a staff member.*

A former staff member as well as a present staff member is prohibited from receiving or soliciting any compensation for services rendered before any *department, agency or commission* by himself or *any other* person while he was a staff member in relation to a particular matter in which the United States is a party or has an interest. It should be noted that the representative services covered do not include appearances before courts—only agencies, departments or commissions.

This prohibition affects the circumstances under which a former staff member may join or rejoin a firm which is engaged in his particular business. The statute makes it unlawful for a former employee to share in any fees received by the firm for services in relation to a particular matter, in which the United States is a party or has an interest, performed by the firm at any time during the period of his government employment. This is so even though the matter was not ever before his particular department or agency and did not come to his attention before his separation from the government.

The new firm member and the firm must make an arrangement whereby his share of its income is attributed to sources other than fees of the firm derived from activities covered by this prohibition.

(c) *Restrictions on partners of former staff members.*

Partners of former staff members are as such not within the scope of the conflict of interest statutes discussed in paragraphs (a) and (b). Partnership with the former staff member does not legally disqualify them in matters in which the staff member is disqualified. However, as indicated above, the law prohibits the partners of a former staff member from sharing compensation with him for certain services rendered during his period of government service.

In addition to the foregoing, departing staff personnel with a legal background who have served on the staff in a legal capacity should also familiarize themselves with additional restrictions imposed by the Code of Professional Responsibility of the American Bar Association.

### 13. Employment Referrals

As a member of the White House Staff, situations may arise in which requests are made of you to assist in obtaining employment in the Federal

Executive Branch. These requests may come from friends, Congressional offices, national, state or local campaign committees, or other sources aware of your position. The procedures that should be adhered to in these situations are as follows:

a. *Career Positions:* No Staff member may refer an individual for a career position within a department or agency or request others within the Executive Branch to do so. Telephone calls or inquiries as to the status of an appointment for a career position in a department or agency are prohibited. This applies to *all* positions, regardless of grade, in which a competitive or merit system is used.

Staff members may encourage applicants to apply on their own initiative for entry into one of the Federal merit systems. Staff members may permit their names to be used as a reference for such an applicant only if they are professionally or personally acquainted with the applicant and are able to attest to his or her work skills, substantive qualifications, or personal integrity and character. No communications are allowed which may be interpreted as a recommendation for employment unless they are reference checks requested by a potential employing agency. When such checks are made the Staff member's response should be based solely on personal knowledge of the applicant and merit considerations.

The White House Personnel Office, Room 6 EOB (Ext. 2260) may assist White House personnel seeking employment elsewhere in Government by recommendation or referral through its normal personnel operations upon request by a department or agency. In addition, this office may advise White House personnel concerning other Federal employment opportunities and whether they have the right to career appointments as provided in the case of White House employees of two or more years service pursuant to Civil Service Regulation 315.602.

b. *Non-career positions:* White House Staff, other than the White House Presidential Personnel Office, should not refer an applicant for a non-career position directly to the agency in which employment is sought. Such applicants should be referred to the Presidential Personnel Office, Room 145 EOB (Ext. 2995), which is responsible for assisting the President in obtaining and relaying his decisions concerning non-career personnel. That office is happy to receive recommendations you may have for non-career positions. White House Staff initiatives other than through the Presidential Personnel Office tend to complicate

rather than aid in the non-career employment process.

The Presidential Personnel Office receives recommendations from the White House Staff, has a system of actively seeking the comments of senior White House Staff officers on candidates for non-career vacancies, and is available to interview ap-

plicants who are considered by Staff members as being outstanding possibilities.

c. If you are unsure as to whether a position sought by an applicant is categorized as career or non-career, you should consult the Presidential Personnel Office prior to taking any further action on your own.



THE WHITE HOUSE

WASHINGTON

December 1, 1975

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM:

PHILIP W. BUCHEN

P.W.B.

SUBJECT:

Acceptance of Christmas Presents

The approach of the Christmas season raises anew questions of presents -- those to be given and those which may be received. With no intention of detracting from the joys of the season, I remind everyone on the White House Staff of the limitations imposed by statutes and regulations on acceptance of gifts.

Gifts between Staff Members

Federal statutes prohibit the acceptance of gifts from fellow employees of a lesser pay status. The solicitation of contributions for a Christmas gift for an employee in a superior official position is also prohibited by statute, as is the giving of such a gift or donation. However, these laws have not been interpreted to preclude the traditional exchange of gifts of nominal value between co-workers within an office.

Acceptance of Other Gifts

As a member of the White House Staff you are expressly prohibited from soliciting or accepting gifts from corporations or persons (1) who have or are seeking contractual agreements with any Executive department or agency, (2) who engage in activities regulated by Executive departments or agencies, or (3) who have any interests which may be substantially affected by the performance of your job. This latter group includes federal employees as well as persons in the private sector.

The foregoing does not preclude your acceptance of unsolicited advertising or promotional items such as pens, note pads, calendars, etc., so long as they are of nominal value (\$10 or less). Similarly,



you are not prohibited from accepting reasonable gifts, promotional or otherwise, from close personal friends or relatives who have dealings with the government, when it is clear that the motivation for the gift is the personal relationship and acceptance would not give rise to the appearance of a conflict of interest.

In addition, the law prohibits the acceptance of gifts in excess of \$50 (retail value in U.S.) from representatives of foreign governments except with the express consent of Congress.

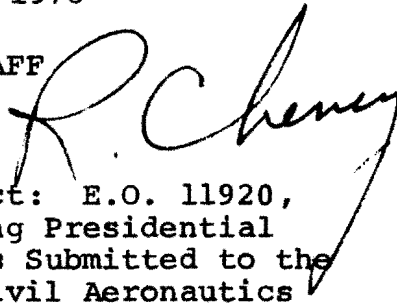
#### Procedures for Disposition of Prohibited Gifts

Any prohibited gift should be returned to the donor along with a letter, a copy of which should be retained for your files, stating the reasons for its return. If for any reason it is not possible to return the gift, please forward it to the Counsel's office (Room 106, OEOB) along with a letter of explanation. The gift will then be turned over to a public charity or charitable institution, or if it is from a representative of a foreign government, to the State Department for disposition in accordance with its regulations.

The rationale for the foregoing restrictions is two-fold. First, as between members of the Staff, they avoid any appearance that a person is attempting to gain favor with a superior by the giving of a gift or that any gift is expected by the superior. Second, as to gifts that might be offered from those outside the White House, they protect you as a member of the Staff from being exposed to even the appearance of a conflict of interest.

THE WHITE HOUSE  
WASHINGTON

July 1, 1976

MEMORANDUM FOR: THE WHITE HOUSE STAFF  
FROM: RICHARD B. CHENEY   
SUBJECT: Standards of Conduct: E.O. 11920,  
Procedures Governing Presidential  
Review of Decisions Submitted to the  
President by the Civil Aeronautics  
Board

On June 10, 1976, the President announced that he had issued Executive Order 11920 (copy attached) to improve the process of Presidential review of certification and permit decisions of the Civil Aeronautics Board (CAB) involving international and overseas air transportation. The Order establishes for the first time guidelines to better assure fairness in the review process and to avoid suspicions of impropriety. This memorandum is to apprise you of your new obligations and responsibilities and the new procedures to be followed under E.O. 11920, effective July 11, 1976.

Background

Under Section 801 of the Federal Aviation Act, as amended (49 U.S.C. 1461), the President has authority to approve or disapprove certification and permit decisions of the CAB involving international and overseas air transportation. This authority is in recognition of the President's Constitutional responsibilities for foreign policy and national defense.

Over the years, the process of Presidential review of CAB decisions has provoked some controversy. Among the problems raised has been the appearance of impropriety which arises from the absence of specific guidelines governing access by outside parties to staff in the White House and other agencies within the Executive Office of the President.

Our current Standards of Conduct which were distributed on October 28, 1974, bar all ex parte contacts with the various regulatory agencies, including the CAB, unless there is prior

clearance with the Counsel's Office (Standards of Conduct, par. 11).<sup>\*</sup> However, that constraint does not effectively meet the problems which are raised incident to the Section 801 review process.

#### New Limitations

The principal provisions of the Executive Order as it affects White House Staff may be summarized as follows:

- Individuals are directed not to discuss any pending CAB cases with interested parties and to transmit all written communications from such parties to the appropriate department or agency for handling.
- Exceptions to the policy noted above are appropriate only when the head of a department or agency outside of the Executive Office of the President personally finds that direct communication between a private party and a person on the White House Staff is needed for reasons of defense or foreign policy.

Although E.O. 11920 will become effective July 11, 1976, as noted above, effective immediately all White House Staff are directed to abide by its provisions. You should note that the prohibition on ex parte contacts applies to cases at the CAB that have not yet been sent to the White House for Presidential review. In many instances, you may not even be aware of the existence of a particular case. Thus, in discussing international air transportation matters with private parties, you should inquire whether or not the party has an interest in a specific case if you have any reason to believe that such may be the fact. Of course, you should terminate any discussions upon learning that the party does have an interest in a pending case.

All specific questions arising under E.O. 11920 should be referred to the Counsel's Office.

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\* A detailed breakdown of the different categories of regulatory agencies was provided in a memorandum issued by Donald Rumsfeld under date of October 10, 1975.

Executive Order 11920

June 10, 1976

**Establishing Executive Branch Procedures Solely for the Purpose of Facilitating Presidential Review of Decisions Submitted to the President by the Civil Aeronautics Board**

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 801 of the Federal Aviation Act, as amended (49 U.S.C. 1461), and as President of the United States of America, solely to provide Presidential guidance to department and agency heads and in order to facilitate Presidential review of decisions submitted to the President for his approval by the Civil Aeronautics Board pursuant to section 801 of the Federal Aviation Act, as amended, it is hereby ordered as follows:

SECTION 1. (a) Except as provided in this section, decisions of the Civil Aeronautics Board, hereinafter referred to as the CAB, transmitted to the President pursuant to section 801 of the Federal Aviation Act, as amended, hereinafter referred to as section 801, may be made available by the CAB for public inspection and copying following submission to the President.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 11652, as amended, decisions of the CAB transmitted to the President under section 801 shall be withheld from public disclosure for five days after submission to the President.

(c) At the same time that decisions of the CAB are submitted to the President pursuant to section 801, the CAB shall transmit copies thereof to the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the CAB transmitted pursuant to subsection (c) above, and shall promptly advise the Assistant to the President for National Security Affairs or his designee, whether, and if so, why, action pursuant to Executive Order No. 11652, as amended, is deemed appropriate. If, after considering the above recommendations, the Assistant to the President for National Security Affairs or his designee determines that classification under Executive Order No. 11652 is appropriate, he shall take such action and immediately so inform the CAB. Action pursuant to this subsection shall be completed within five days of receipt of the decision by the President.

(e) On and after the sixth day following receipt by the President of a CAB decision submitted pursuant to section 801, the CAB is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under Executive order or statute other than section 801.

SEC. 2. (a) Views of departments and agencies outside of the Executive Office of the President, other than those views involving considerations of defense or foreign policy (including international negotiations costs) which are to be the subject of recommendations to the President in connection with his review under section 801, shall be presented to the CAB in accordance with the procedures of the CAB. While some issues will inevitably involve both questions of regulatory policy and defense or foreign policy, departments and agencies outside of the Executive Office of the President should make a conscientious effort to present their views on regulatory matters in proceedings before the CAB, and raise only matters of defense or foreign policy that are of Presidential concern in the course of the review under section 801.

(b) Departments and agencies outside of the Executive Office of the President which intend to make recommendations to the President on matters of defense or foreign policy and have such intentions while the matter is pending before the CAB, shall, except as confidentiality is required for reasons of defense or foreign policy,

make the existence of such intentions and the conclusions to be recommended known to the CAB in the course of its proceedings.

SEC. 3. (a) In advising the President with respect to his review of an order submitted to him pursuant to section 801, departments and agencies outside of the Executive Office of the President shall:

(1) identify any matter contained in their respective recommendations which was not previously submitted to the CAB pursuant to section 2(a) above;

(2) explain why such matter was not previously submitted to the CAB for its consideration; and

(3) identify with particularity the defense or foreign policy implications of the CAB decision which are deemed appropriate for the President's consideration.

(b) Orders involving foreign and overseas air transportation certificates of U.S. carriers that are subject to the approval of the President are not subject to judicial review when the President approves or disapproves an order for reasons of defense or foreign policy. All disapprovals necessarily are based on such a Presidential decision, but approval by the President does not necessarily imply the existence of any defense or foreign policy reason. For the purpose of assuring whatever opportunity is available under the law for judicial review of the CAB decisions, all departments and agencies which make recommendations to the President pursuant to section 801 should indicate separately whether, and why, if the order or any portion of the order is approved, the President cannot state in his approval that no defense or foreign policy reason underlies his action.

SEC. 4. Individuals within the Executive Office of the President shall follow a policy of (a) refusing to discuss matters relating to the disposition of a case subject to the approval of the President under section 801 with any interested private party, or an attorney or agent for any such party, prior to the President's decision, and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may only be made when the head of an appropriate department or agency outside of the Executive Office of the President personally finds that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 5. Departments and agencies outside of the Executive Office of the President which regularly make recommendations to the President in connection with the Presidential review pursuant to section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 6. Although it is recognized that the provisions set forth in this Order will frequently apply to review of decisions made in adversary proceedings involving private parties, this Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the Presidential review process. This Order does not confer rights on any private parties.

SEC. 7. The provisions of this Order shall be effective on the 30th day following publication in the FEDERAL REGISTER.

THE WHITE HOUSE,  
June 10, 1976.



[FR Doc.76-17296 Filed 6-10-76;10:58 am]