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THE WHITE HOUSE

WASHINGTON

April 23, 1990

MEMORANDUM FOR D. ALLEN BROMLEY
DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY POLICY

FROM: C. BOYDEN GRAY *cmh*
COUNSEL TO THE PRESIDENT

SUBJECT: Your Inquiry about an ASME Fellow

This responds to your memorandum asking my advice on the propriety of the Office of Science and Technology Policy accepting the services of a fellow arranged through the American Society of Mechanical Engineers (ASME), a non-profit organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code. Although I will leave it to your own counsel to assess any issues that arise specifically under OSTP's own legal framework, the following is general guidance on the considerations affecting fellowship programs.

Under federal law, government agencies ordinarily are prohibited from making use of volunteer services. In the case of the White House, a number of Department of Justice opinions have concluded that in positions for which there is no minimum salary level set by statute or otherwise, it is permissible for the White House to accept "gratuitous" services -- essentially to "hire" an individual at a salary of zero. Copies of the opinions are attached for your reference. Whether or not the DOJ analysis can be extended to OSTP will depend on the legal authority under which OSTP staff is hired.

Per DOJ's advice, White House procedures call for volunteers to enter into an up-front agreement that they will serve without compensation, and there is a form that the White House Personnel Office uses for this. (This can avoid having private volunteers later sue the government for compensation.)

The same Department of Justice opinions addressing the hiring of volunteers also state that there is no blanket prohibition against private organizations paying the salary of White House volunteers, e.g., by providing a fellowship to support an internship. Because the fellow would be considered a Federal employee, any such arrangement would be subject to conflict-of-interest limitations, as discussed below. Assuming such limitations are met, I would not object on policy grounds to taking on an ASME fellow. I would object, however, to accepting volunteer services from an individual employed by or on leave from an outside company or other organization.

Standard conflict of interest statutes and regulations would apply to any fellow. As a result, for example, --

- o the fellow should not participate personally and substantially in any matter in which the fellow has (or has attributed to him/her) a financial interest under 18 U.S.C. 208, and the fellow should not work on matters in which ASME has a financial interest;
- o the fellow should not deal with ASME on behalf of the government or deal with the government on behalf of ASME;
- o to the extent that the fellow participates personally and substantially in government matters involving the rights of specific parties, the fellow will be subject to post-employment restrictions;
- o the fellow may not provide non-public government information to ASME or otherwise use government resources for private purposes, including ASME purposes.

There are also general standards of conduct, requiring among other things that employees (including unpaid employees such as volunteers and interns) avoid actions that may result in or create the appearance of impropriety or using public office for private gain. 3 C.F.R. 100.735-4.

In view of these restrictions, it would be useful for ASME to commit to you in writing that there are no problematic conditions attached to the receipt of the fellowship (e.g., that ASME does not expect any non-public information or special treatment from the fellow or OSTP on account of the fellow's placement). Application materials and selection criteria for the fellow should also reflect the applicability of basic conflict-of-interest requirements.

Feel free to contact me or Amy Schwartz of my staff if you have any questions.

Attachments



Office of the
Deputy Assistant Attorney General

Washington, D.C. 20530

MAR 27 1987

Memorandum for Alan Raul
Associate Counsel to the President

Re: White House Use of Volunteers in the Pay of
National Political Organizations

This responds to your request that we review certain statements made in an OLC memorandum prepared in 1982 for the White House Counsel's Office dealing with the use of volunteers to perform official governmental duties in the White House Office. See Memorandum for Fred F. Fielding, Counsel to the President, from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, February 9, 1982 ("1982 OLC memorandum"). The memorandum concluded that the White House Office may hire employees to serve without compensation; that such employees would be exempt from the Hatch Act restrictions on political campaigning; and that private organizations may, in general, pay the salaries of such employees.

The memo's final conclusion, regarding payment of salaries by private organizations, was qualified by the advice that any such arrangements should be examined in light of the Standards of Conduct applicable to agencies in the Executive Office of the President, 3 C.F.R. 100.735(1)-(32). These regulations set forth guidelines for determining when the financial relationship between a White House employee and a private entity may give rise to a conflict of interest or the appearance of a conflict of interest. Inter alia, the regulations prohibit an employee within the White House Office from accepting anything of monetary value from a person or organization which has or is seeking a "contractual or other business or financial relationship" with the White House Office, conducts activities that are "regulated" by the White House Office, or "[h]as interests which may be substantially affected by the performance or nonperformance of his official duty." 3 C.F.R. 100.735-14. These regulations also generally incorporate the standards of ethical conduct applicable to all government employees by virtue of Executive Order 11244. The 1982 memorandum observed that responsible officials in the White House Office are "in the best position to judge as each case arises whether the activities of the White House Office and an employee preclude receipt of a salary from a particular organization under these regulations."

In addition to these general rules, the 1982 OLC memorandum offered a "general observation" that payment of White House volunteers by "political organizations that were established to pursue national political objectives" would "invariably violate the spirit if not the letter" of the regulations in several different respects. The memorandum identified two such organizations as the Republican National Committee and the National League of Cities. The memorandum recognized that employees of the White House Office are "expected to be political," but argued that the standards of conduct "attempt to assure . . . that employees will at least be independent from the financial pressure of outside partisan organizations." Accordingly, the memorandum suggested that "national political organizations should not pay the salaries of White House Office employees under the current regulations."

At your request, we have reviewed the 1982 memo's discussion regarding political organizations.¹ In essence, this discussion appears to derive from the memorandum's implicit conclusion that the financial relationship between a White House employee and a national political organization stands on an entirely different footing under the standards of conduct than the financial relationship between a White House employee and any other private organization that does business with the White House Office or has interests that could be affected by the performance of the employee's duties. We see no basis for such a conclusion, either in the standards of conduct themselves or in any particular factual aspect of the relationship between a national political organization and the White House Office. Indeed, given what the memorandum concedes is the acknowledged and accepted partisan "political" bent of many White House employees, it strikes us as counterintuitive to suggest that an objectionable conflict of interest would be more likely to arise from a financial relationship between a White House employee and a political organization than one between a White House employee and, say, a private corporation competing for major government contracts. To the extent the conflicts of interest in the two above situations are qualitatively distinguishable at all, it would seem more reasonable to suggest that the legal presumption should run the other way.

¹ The 1982 OLC memorandum does not appear to distinguish between the situation of a White House employee drawing a regular salary from a private entity and one being paid by the private entity on a retainer or consultancy basis, and its conclusions thus apply generally to any individual being paid by a private entity while performing government services. In light of the issues involved in this case, we see no reason to distinguish between White House employees on the basis of the details of the financial arrangement between them and the private entity that is paying them.

Accordingly, we see no basis for a determination by this Office that persons being paid by national political organizations should necessarily be precluded from being assigned to perform governmental duties in the White House Office. We believe that the general advice given in the 1982 OLC memorandum -- viz., that determinations respecting the employment of volunteers in the pay of private organizations are best made under the applicable standards of conduct on a case-by-case basis in the White House Office itself -- applies in such cases to the same extent that it applies in any other case.

Samuel A. Alito, Jr.

Samuel A. Alito, Jr.
Deputy Assistant Attorney General
Office of Legal Counsel

9 FEB 1962

MEMORANDUM FOR FRED F. FIELDING
Counsel to the President

Re: White House Use of Volunteers

This memorandum responds to the oral request from H.P. Goldfield for an opinion regarding the proposed use of "volunteers" in the White House Office. We understand that the volunteers would receive government appointments and would perform government duties in the White House Office, but would be paid by private organizations. You have asked three specific questions. First, does the White House Office have the authority to employ individuals without paying them any government salary? Second, assuming the White House Office does have this power, would these individuals be subject to the restrictions imposed on public employees by § 9(a) of the Hatch Act, now codified in 5 U.S.C. §§ 7324? Third, may private organizations pay the salaries of these individuals and, if so, what conflicts of interests restrictions would generally apply to them? For reasons discussed below, we conclude that: (1) the White House Office may hire employees without compensation, (2) the employees would be exempt from the Hatch Act restrictions on political campaigning, and (3) private organizations may, in general, pay the salaries of such employees, but some such organizations may not do so because, under the particular circumstance, conflict of interest may make it improper for them to do so. We will address each of these sets of issues in turn.

I

THE AUTHORITY OF THE WHITE HOUSE OFFICE
TO HIRE INDIVIDUALS WITHOUT COMPENSATION

The ability of the White House Office to hire individuals without paying them any government salary depends on whether Congress has imposed a minimum salary level for such employees. For the vast majority of executive positions, Congress has

established a minimum salary, either directly or by including them under the General Schedule or some comparable salary schedule. In these cases it is illegal for the employing agency to pay less than the established salary. See, e.g., Glavey v. United States, 182 U.S. 595 (1901); McMath v. United States, 248 U.S. 151 (1918); Saltzman v. United States, 161 Ct. Cl. 634, 639 (1963). On the other hand, in those few cases where Congress has not established a minimum level for particular positions, Congress can be said to have granted the agency the discretion to pay employees nominal sums or even engage their services without compensation. See generally United States v. Crosthwaite, 168 U.S. 375, 377 (1897); United States v. Herron, 170 U.S. 527 (1898); Lee v. United States, 45 Ct. Cl. 57 (1910).

In the case of employees in the White House Office, Congress has set no minimum salary levels. Section 105 of Title 3, United States Code states in pertinent part:

Subject to the provisions of paragraph (2) of this subsection [which sets certain maximum salary levels] the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

The continuing appropriations act currently in effect allocates \$19,664,000 for the "White House Office Salaries and Expenses." ^{1/} Since Congress has established no minimum salaries for employees in the White House Office, it may hire individuals for the Office without salary.

The prohibition contained in section 665(b) of Title 31 on the acceptance of "voluntary service" for the United States does not affect this conclusion. That section states:

^{1/} "Treasury, Postal Service, and Federal Government Act, 1982," H.R. 4121, 97th Cong., 1st Sess. 12-13 (Nov. 17, 1981). Section 101(a)(3) of the continuing resolution Act, Pub. L. No. 97-92, 95 Stat. 1183 (Dec. 15, 1981), incorporates the proposed appropriation for the White House contained in the draft of the "Treasury, Postal Service, and Federal Government Act, 1982" as amended by the Senate on November 17, 1981.

No officer or employee of the United States shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

A 1913 opinion of the Attorney General, which the Office of Legal Counsel and the Comptroller General have followed, distinguishes between a "voluntary service", which is not permitted under the section, and a gratuitous service, which has been considered as not violating the section. A gratuitous service, under the Attorney General's analysis, includes a service provided by a government employee under a prior agreement assuring that the employee has no right to reimbursement from the Government. The opinion explains:

[I]t seems plain that the words "voluntary service" were not intended to be synonymous with "gratuitous service" and were not intended to cover services rendered in an official capacity under regular appointment to an office otherwise permitted by law to be unsalaried. In their ordinary and normal sense these words refer to service intruded by a private person as a "volunteer" and not rendered pursuant to any prior contract or obligation.

30 Op. A.G. 51, 52 (1913) (emphasis added). See 54 Comp. Gen. 560 (1975); 7 Comp. Gen. 810 (1928). J. Weinstein and W. Bonvillian, A Part Time Clerkship Program in Federal Courts for Law Students, 68 F.R.D. 265, 269-73 (1975). See also 41 Op. A.G. 463, 480 (1960). The opinion explains that the underlying intent of 31 U.S.C. § 665(b) is to prevent private volunteers from successfully suing the government for the value of their services. Gratuitous services by a government employee under contract would not support such claims. Accordingly, section 665(b) would not preclude the White House Office from hiring individuals for positions, such as the present ones, that are "otherwise permitted by law to be non-salaried."

We note, however, that the Attorney General's opinion emphasizes that there should be a prior agreement between the employee and the government that the employee serve without compensation. We recommend that papers relating to the appointment of the volunteers specify that they will not receive government compensation.

APPLICATION OF THE HATCH ACT TO EMPLOYEES
IN THE WHITE HOUSE OFFICE WHO RECEIVE NO
GOVERNMENT SALARY

You have also asked us whether the volunteers described in this opinion would be covered by the restrictions in the Hatch Act on the political activities of Executive employees. The purpose of the Act, as the Supreme Court has observed, is to further "the impartial execution of the law" by unbiased government employees, to protect government employees from being coerced into supporting a particular party, and to assure that an incumbent does not secure an unfair advantage by the enlistment of campaign workers at government expense. Civil Service Commission v. Letter Carriers, 413 U.S. 548, 565-66 (1973). Accordingly, the Act imposes two types of limitations. First, it prohibits "an employee in an Executive agency", including any employee in the White House Office, from using "his official authority or influence for the purpose of interfering with or affecting the result of an election." 5 U.S.C. § 7324(a)(1). The volunteers in the White House Office would be subject to this first prohibition because they are "employees" within the meaning of the Hatch Act. ^{2/} The second restriction in the Hatch Act forbids an "employee in an Executive Agency" from taking "an active part in political management or in political campaigns," 5 U.S.C. § 7324(a)(2), although there are specific exceptions to this second prohibition for certain types of employees. The only one of these exemptions pertinent to White House Office volunteers is for "an employee paid from the appropriation for the office of the President." 5 U.S.C. § 7324(d)(1). ^{3/} We understand that your opinion request is

^{2/} The definition of "employee" generally applicable to Title V covers, in pertinent part, "an officer or an individual" who is appointed by the President or an employee, is "engaged in the performance of a Federal function under authority of law", and is subject to the supervision of another government employee or officer. 5 U.S.C. § 2105(a)(1). Under your description of the responsibilities of the volunteers proposed for the White House Office, they would fall within this definition.

^{3/} The following are also exempted from this requirement:

(2) the head or the assistant head of an Executive department or military department.

(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

(continued)

directed to this second issue: whether employees in the White House Office who are not "paid" from any government appropriation would be excepted by this provision from the restriction on participation in political campaigns.

The explicit language of section 7324(d)(1) would not appear to exempt government volunteers in the White House Office since they are not paid by appropriations for that Office. 4/ Nevertheless, it is difficult to believe that Congress actually intended to prohibit White House Office volunteers from participating in political campaigns and, at the same time, to permit campaigning by paid White House Office employees who perform the same duties under the same type of appointment. The mere fact that a White House Office employee is not paid would not seem to justify a restriction on his political activities. In addition, Congress might well have overlooked the distinction between paid and unpaid White House employees because voluntary service in the government is not a common occurrence. The Supreme Court has recognized that "[t]he circumstances of the enactment of particular legislation may persuade a court that Congress did not intend words of common meaning to have their literal effect." Watt v. Alaska, 101 S. Ct. 1673, 1677-78 (1981). Therefore, we would not rely on the specific wording of the exception in these circumstances, but look to its legislative history to determine whether Congress actually intended to preclude the campaign activities of White House Office volunteers.

Although sparse, the legislative history of section 7324(d)(1) reveals that Congress intended to exempt all government workers employed by the White House Office. The draft of the Hatch Act that was originally passed by the Senate in 1939 did not provide for

3/ (continued)

(4) The Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia, Self-Government and Governmental Reorganization Act; or

(5) the Record of Deeds of the District of Columbia.

5 U.S.C. § 7324(d). None of these are relevant to the present issue.

4/ The Office of Legal Counsel has previously interpreted the "Office of the President" to mean, under recent appropriation acts, the "White House Office."

any specific exemption for the White House. In response to criticisms in the House that this broad prohibition would preclude high level officials from campaigning or defending the administration policies, see 84 Cong. Rec. 9672 (1939) (Rem. of Sen. Carl Hatch), the House adopted an amendment, which was later accepted by the Senate, 84 Cong. Rec. 9674 (1939), that exempted the President, Vice-President, "persons whose compensation is paid from the appropriation for the office of the President," and certain other senior executive officials. 84 Cong. Rec. 9625 (1939). The purpose of the amendment, as described by Senator Hatch, was to permit the President and his staff to engage in the partisan political activities that are inextricably tied to their official responsibilities. He stated:

[W]hen policy-making officials of the Government such as the President and members of the Cabinet inaugurate and carry on great policies of government, they must necessarily frequently go before the country and the people and explain their policies, and often it is true that they must defend them when they are assailed. It is but right and proper that they should have the full privilege of doing so, and the bill now so provides. It is also provided that persons paid from appropriations for the Executive Office, the staff of that office, are not affected by the bill, which should be the case.

84 Cong. Rec. 9672 (1939) (emphasis added). Thus, Senator Hatch assumed that the amendment would cover the whole White House Office staff, whose policy making role justified the exception. Expressing a similar understanding, the author of the amendment, Senator Dempsey, announced on the floor that it "clearly exempts the President, and Vice-President of the United States, as well as the staff of the President and those who obtain their salaries from the appropriation made for White House purposes." 84 Cong. Rec. 9626 (1939) (emphasis added).

This history, although limited, supports the view that we should not read the exception narrowly. Congress evidently intended to exempt the entire staff of the White House Office. It merely defined the White House Office exception according to the source of the employees' income. This does not mean that Congress sought to include within the coverage of the Hatch Act White House Office staff not paid with White House Office appro-

tions. Rather, it would appear most likely that Congress simply never considered the possible distinction between paid and unpaid White House Office employees. 5/ Certainly, the reasons for which Congress passed the exception -- to allow the President's policymaking assistants and his staff to help present and defend the administration's program -- equally applicable to unpaid White House Office staff, all other things being equal. For all of these reasons, we believe that, although White House Office volunteers "may be within the letter" of the prohibition against campaigning, they are "not within . . . its spirit [or] the intention of its makers." United Steelworkers v. Weber, 443 U.S. 193, 201 (1979), (quoting Holy Trinity Church v. United States, 143 U.S. 457, 459 (1892)). We therefore interpret section 7324(d)(1) to permit White House Office volunteers to engage in the same type of political activities as employees paid from White House Office appropriations.

5/ Congress' failure to distinguish between paid and unpaid government employees is also evident from other changes made by the Dempsey Amendment. The version of the Hatch Act that was originally passed by the Senate would not have prohibited political campaigning by any volunteers, although there is no evidence that Congress ever considered this issue. The bill would have made it

unlawful for any person employed in any administrative or supervisory capacity by any agency of the Federal Government, whose compensation or any part thereof, is paid from funds authorized or appropriated by any act of Congress, to . . . take [an] active part in political management or in political campaigns.

S. 1871, 76th Cong., 1st Sess. (1939), reprinted in, 84 Cong. Rec. 4192 (1939) (emphasis added). Members of Congress feared that this provision might subject them and their employees to the prohibitions on campaigning. See 84 Cong. Rec. 9624 (1939) (Rem. of Rep. Celler). To allay these concerns, the Dempsey amendment changed the language of the Act to cover only "any person employed in the executive branch of the Federal Government," 84 Cong. Rec. 9625 (1939). This change, which assured that Congress was not covered, had the incidental effect of bringing unpaid employees within the prohibitions of the Act, although there is no evidence that Congress ever recognized this possible effect.

This analysis does not suggest, however, that an employee detailed to the White House Office from another agency comes within this exception. An employee detailed to the White House Office, unlike an unpaid employee in the White House Office, has not been appointed to a position with the specific responsibilities of assisting the President in the functions protected by this exemption. Moreover, campaigning by workers paid by other government agencies could undermine the impartiality of those other agencies and lead to the improper use of government personnel and funds for political purposes. See Civil Service Commission v. Letter Carriers, 413 U.S. at 565-66. Accordingly, we believe that an employee paid from the funds of other agencies are necessarily in a different position from unpaid employees appointed to White House Office positions.

III

PAYMENT OF VOLUNTEERS' SALARIES BY PRIVATE ORGANIZATIONS

You have also asked us whether private organizations, such as the Republican National Committee or private corporations, may pay the salaries of the volunteer White House Office employees. We understand that we are to assume that the volunteers should be considered employees under the relevant conflict of interest statutes and regulations.

There is no blanket prohibition against private organizations paying the salaries of White House Office volunteers. Under 18 U.S.C. § 209(a), it is unlawful for a federal officer or employee to receive any salary, or any contribution to or supplementation of salary, from a private source as compensation for his services to the federal government. However, this prohibition does not apply to any employee who serves without compensation. See 18 U.S.C. § 209(c); 3 C.F.R. § 100.735-13(a). Since none of the volunteers will receive any federal compensation, there is no absolute rule prohibiting them from being compensated for their government work by private sources.

Nevertheless, we recommend that you closely examine the extent to which the Standards of Conduct Regulations applicable to agencies in the Executive Office of the President, see 3 C.F.R. §§ 100.735-(1)-(32), substantially limit the type of organizations that may pay the salaries of these employees. The Standards of Conduct were issued in compliance with Executive Order No. 11222 of May 8, 1965, and Civil Service Commission regulations implementing that Order. See 5 C.F.R. 735. In pertinent part, they prohibit an employee within the White House Office from accepting anything of monetary value from a person or organization which has or is seeking a "contractual

or other business or financial relationship" with the White House Office, conducts activities that are "regulated" by the White House Office, or "has interests which may be substantially affected by the performance or nonperformance of his official duties." 3 C.F.R. § 100735-14. An employee also may not participate substantially in any matter in which he knows that he or his employer has a "financial interest." 3 C.F.R. § 100.735-9(a); 18 U.S.C. § 208. More generally, an employee is instructed to avoid any action, even though not specifically prohibited, which might result in, or create the appearance of

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government.

3 C.F.R. § 100.735-4(c). See also 3 C.F.R. §§ 100-735-8 and 15(a)(1). We believe that you are in the best position to judge as each case arises whether the activities of the White House Office and an employee preclude receipt of a salary from a particular organization under these regulations.

We offer one general observation, however. Volunteers should not be paid by political organizations that were established to pursue national political objectives, such as the Republican National Committee or the National League of Cities. Payments by these groups would invariably violate the spirit if not the letter of the rule against gifts by organizations which have or seek to establish "a business or financial relationship" with the White House Office. Although political groups do not seek a "financial" relationship with the White House Office in the classic contractual sense, they are engaged in the "business" of politics. They have the explicit purpose of influencing and securing favorable decisions by the White House on various issues. If these groups paid the salaries of White House Office employees, it might create the same types of conflict of interests that would arise if an organization with a financial interest in the affairs of the Office paid employees' salaries. In addition, national political organizations have "interests which may

THE WHITE HOUSE

WASHINGTON

January 24, 1990

MEMORANDUM FOR SALLY KELLY

FROM:

DAMAR HAWKINS

Damar Hawkins

SUBJECT:

ASME MEETING REQUEST

Re Referral 062668 dated August 15, 1989, we understood that Governor Sununu wanted Dr. Bromley to meet with Dr. Belden of the American Society of Mechanical Engineers.

In the meantime we have been in touch with Nancy Robleski of ASME and for one reason or another, the appointment was postponed several times. Now that Dr. Bromley has senior staff on board, namely Bill Phillips, Associate Director for Industrial Technology, designee, it seems more appropriate for Bill to see Dr. Belden. I informed Nancy of the above and left the matter with her to contact Dr. Phillips to arrange the appointment if they wished to do so.

I would appreciate your closing out this referral.

**THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

INCOMING

DATE RECEIVED: AUGUST 11, 1989

NAME OF CORRESPONDENT: DR. DAVID L. BELDEN

SUBJECT: ENCLOSURE POSITION PAPER "ENERGY AND THE
ENVIRONMENT" AND REQUESTS WHITE HOUSE MEETING
TO DISCUSS THE RECOMMENDATIONS

		ACTION		DISPOSITION	
ROUTE TO: OFFICE/AGENCY	(STAFF NAME)	ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED D YY/MM/DD
JOHN SUNUNU		ORG	89/08/11		C 89/08/11
JACKIE KENNEDY	REFERRAL NOTE:	RSA	89/08/11		/ /
9905TR	REFERRAL NOTE:	A	89/08/18		/ /
	REFERRAL NOTE: ATTN: Dr. Bromley		/ /		/ /
	REFERRAL NOTE:		/ /		/ /
	REFERRAL NOTE:		/ /		/ /

COMMENTS:

See attached note dated 1/24/90

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: _____

CS MAIL USER CODES: (A) _____ (B) _____ (C) _____

*ACTION CODES:	*DISPOSITION	*OUTGOING	*
*	*	*CORRESPONDENCE:	*
*A-APPROPRIATE ACTION	*A-ANSWERED	*TYPE RESP=INITIALS	*
*C-COMMENT/RECOM	*B-NON-SPEC-REFERRAL	*OF SIGNER	*
*D-DRAFT RESPONSE	*C-COMPLETED	*CODE = A	*
*F-FURNISH FACT SHEET	*S-SUSPENDED	*COMPLETED = DATE OF	*
I-INFO COPY/NO ACT NEC		*OUTGOING	*
*R-DIRECT REPLY W/COPY *			*
*S-FOR-SIGNATURE *			*
*X-INTERIM REPLY *			*

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.

"CORRESPONDENCE TRACKING"

TYPE: Information

DOCUMENT NUMBER: 8920467

FROM: American Society of
Mechanical Engineers

TO: Bromley

DATE OF
CORRESPONDENCE: 11/20/89

SUBJECT: Thank you for your presentation to the ASME's
Industry Advisory Board

ASSIGNED TO: NOT ASSIGNED TO ANYONE

ACTION REQUIRED: NONE

SENDER'S DUE DATE:

OSTP DUE DATE:

DATE COMPLETED:

COPIES TO: Al Hammond
D. Allan Bromley
NEOB files

noted

REMARKS:

DATE RECEIVED: 11/02/89

FILE: EOB



The American Society of
Mechanical Engineers

Suite 218
1825 K Street, N.W.
Washington, DC 20006-1202
202-785-3756

November 20, 1989

Dr. D. Allan Bromley
Assistant to the President for
Science and Technology
Office of Science and Technology Policy
Old Executive Office Building
17th Street & Pennsylvania Ave., NW
Washington, D.C. 20506

Dear Dr. Bromley:

On behalf of ASME's Industry Advisory Board, I want to express my appreciation for your stimulating presentation to the Board following our November 15 dinner.

The Board members were delighted to have the opportunity to meet you and to learn of your commitment to give technology issues more prominence in this Administration than ever before.

We look forward to transmitting additional comments on this topic as a result of this meeting, and will be in touch with your office at that time.

Again, my sincere thanks for your thoughtful remarks.

Sincerely,

Keith Roe

K. Keith Roe
Chairman, Industry Advisory Board

President, Burns & Roe Enterprises, Inc.

1/19/90

APPOINTMENT

REQUEST

Nancy Robleski of ASME, 785-3756, called to request a meeting w/DAB following up from his address to that group last November, when he told them orally that he would be interested in their formulating a "short list" of technology policy ideas. 4-5 presenters want to call on him FEB. 2 or week of Feb. 5, when they will be in town. They would be: Ernie Daman (past president), Chuck Velzy (current president), Dr. Belden (ex. dir.) and Keith Roe (head of industrial advisory board) and one other, probably. I told Nancy you would check w/DAB and get back to her next week.

*Bill Phillips
please*

Can someone on the staff meet with this group?

Yes ☒ No ☐

1/24/90 I spoke to Nancy and informed her that the demands of DAB's time were just too great and that he had suggested the group meet with Dr. Phillips. She has your WDC phone number and will probably contact WP:

(WP's)

Marian

THE WHITE HOUSE
WASHINGTON

August 15, 1989

Dear Marian:

Governor Sununu would like
Dr. Bromley to meet w/ Dr. DAVID
Belden for the governor.

If we work out the date
perhaps the governor will be able
to stop in at the meeting.

Let me know what date you
decide on.

Thanks

x6797

9/14(?)
Jacky told
Janie Tabort
write after
Nov. speech to
+ we would do!

THE WHITE HOUSE OFFICE

REFERRAL

AUGUST 18, 1989

TO: OFFICE OF SCIENCE AND TECHNOLOGY POLICY
ATTN: DR. BROMLEY

ACTION REQUESTED:
APPROPRIATE ACTION

DESCRIPTION OF INCOMING:

ID: 062668
MEDIA: LETTER, DATED AUGUST 8, 1989
TO: JOHN SUNUNU
FROM: DR. DAVID L. BELDEN
EXECUTIVE DIRECTOR
THE AMERICAN SOCIETY OF MECHANICAL
ENGINEERS
345 EAST 47TH STREET
NEW YORK NY 10017
SUBJECT: ENCLOSURES POSITION PAPER "ENERGY AND THE
ENVIRONMENT" AND REQUESTS WHITE HOUSE MEETING
TO DISCUSS THE RECOMMENDATIONS

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN
TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE
UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE
(OR DRAFT) TO:
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE, 20500

89 AUG 22 P 3:05

RECEIVED
SALLY KELLEY
DIRECTOR OF AGENCY LIAISON
PRESIDENTIAL CORRESPONDENCE

U2008



The American Society of
Mechanical Engineers

David L. Belden, Ph.D., P.E.
Executive Director
212-705-7730

345 East 47th Street
New York, NY 10017

August 8, 1989

The Honorable John H. Sununu
Chief of Staff
Executive Office of the President
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear John:

When Ernie Daman and I met with you last year, you encouraged the engineering societies to speak out on public issues.

I am pleased to enclose ASME's position paper, "Energy and the Environment." The paper urges action to reduce the potential for greenhouse warming of the Earth, despite current uncertainties in the scientific data, by developing and implementing not one energy option -- but many.

ASME's recommendations have received considerable notice in the press, and we are now carrying our message to key people in the administration and Congress.

Chuck Velzy, ASME's new President, Ernie Daman, and I would appreciate the opportunity to meet with you, or whoever you suggest on the White House staff to discuss briefly the statement's recommendations. If Dr. Bromley is aboard, perhaps he would appreciate ASME's counsel on this important issue. Janis Tabor of ASME's Washington Center will call your office in the next few days to see when a meeting might be arranged.

Thank you for your continuing interest and support for our profession. I hope to see you soon.

Sincerely,

David L. Belden

DLB/asn

Enclosure

cc: C. Velzy
E. Daman

THE WHITE HOUSE
WASHINGTON

March 5, 1990

Dear Mr. Milder:

Many thanks for your letter of February 1st with which you include the ASME Council on Engineering statement on nuclear power. This is an interesting document and I shall pass it on to Admiral James Watkins, the Secretary of Energy, and to my associates in OSTP who are particularly concerned with the very important question of the development of alternative energy sources.

As an engineer myself, as well as a physicist, I fully appreciate the importance of engineering in these matters and appreciate your writing.

With all best wishes,

Sincerely yours,



D. Allan Bromley
Assistant to the President
for
Science and Technology

Mr. Nelson L. Milder
Assistant Director
Policy Development and Technical Support
Government Relations
The American Society of Mechanical Engineers
Suite 218
1825 K Street, N.W.
Washington, D.C. 20006-1202



The American Society of
Mechanical Engineers

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Washington, DC 20006-1202
202-785-3756

Statement

of the

Nuclear Engineering Division

on

Nuclear Power: Actions Required
to Secure the Nation's Energy Future

January, 1990

NUCLEAR POWER--ACTIONS REQUIRED TO SECURE THE NATION'S ENERGY FUTURE

Nuclear power, currently the nation's second largest source for electricity, is an essential element of the nation's energy future. This source of electricity has an enviable safety and environmental record, while providing low-cost power to the nation's industries and homes. With the rapidly growing demand for electricity and looming shortages in the mid-1990's, decisive action must be taken now to ensure a reliable supply of electricity, with special emphasis on nuclear power. Future vitality of this industry requires a three-pronged approach:

- 1) support from the utility industry;
- 2) design and development of advanced reactor designs by the nuclear manufacturing industry; and,
- 3) program support and regulatory reforms by the Government.

Sustained and visible progress in these three areas will strengthen media and public acceptance of this vital national resource.

Major technical initiatives must be undertaken to bolster the growing support for nuclear power. This paper addresses the key technical initiatives that are essential to retaining and developing nuclear power for the nation's long term environmental and economic well being.

Advanced Reactor Design Characteristics and Objectives

Future reactor designs have to build on the over 30 years of experience with Light Water Reactors (LWR). Recent work to factor this experience into advanced reactor designs indicates that future reactor designs should be based on the following design characteristics.

- o Simplification - Plant designs should be simplified to enhance construction, operation and maintenance. Growing complexity in U.S. nuclear plants is adversely affecting plants in virtually all respects, including initial capital cost, operating cost, availability, operability and maintainability.

- o Design Margin - Plant designs should be built which have substantial built-in margins for accommodating adverse situations during normal operation, transients and accidents.
- o Proven Technology - Plant designs should be based on proven technology, either through established operational experience or through demonstration in prototype plants.
- o Safety - Safety must continue to play a dominant role in plant designs. There is a close connection between safety and reliable operation of a nuclear power plant. Equipment failures or human errors that could cause accidents and consequent risk to the public are similar to shortcomings that lead to low capacity factors or the need for expensive repairs. Hence, improvements in safety have the dual benefit of enhancing public acceptance and protecting the utilities' investments.

The above basic design characteristics should bolster the following key objectives for viable advanced design candidates for selection by utilities to meet their capacity addition needs in the coming decades.

- o Technical excellence in all respects, including performance, environmental impact, safety, reliability, manufacturing and construction.
- o Favorable economics in comparison with other alternatives in both capital and life cycle costs.
- o Investment protection - must provide a high assurance of protecting the utilities' investments through assured licensability, low risk of accidents, proven technology, predictable construction cost/schedule and high availability.

Safety Features in Advanced Designs

The overall objective of safety designs in nuclear plants is to minimize the risk of radioactive release to the environment. The body of knowledge for assuring the safety of nuclear power plants continues to grow and is being applied to both operating plants and new plant designs. Public concern about the safety of nuclear power can be faced directly by developing designs which reduce even further the probability and potential consequences of accidents. This is possible with the incorporation of the following safety features in the design of advanced nuclear plants:

- o Simplification - The simpler the system design, the more reliable it will be, and the more likely it will perform its function.
- o Reduced operator demands - The demands on the operator during normal operation and emergencies should be minimal. This can be achieved by enhanced plant margins and simple system designs.
- o Passive safety systems - To enhance overall system reliability and to simplify the plant, safety system design should utilize practical, and simple engineering solutions. Gravity or stored energy that complement or replace active safety systems are examples.
- o Severe Accident Considerations - The overall plant should both prevent and mitigate the consequences of severe accidents.

The above design features for safety systems build on the lessons learned from over 30 years of experience with operating nuclear plants. The accident at Three Mile Island demonstrated the importance of reduced operator challenges on overall plant safety. A simplified plant achieves the overall objective of minimizing risk. Increased safety by the use of passive safety systems and overall plant designs that specifically consider severe accident prevention and mitigation in the design process further enhance this overall objective.

Plant Design Choices for the Future

Before any power plant can be integrated into the U.S. energy system, a number of essential steps must be taken. These steps are:

- o Technology Development - establishment of basic principles.
- o Design - The design of the plant must evolve through the stages of conceptual, preliminary and detailed design to support feasibility, certification and construction milestones.
- o Demonstration - The plant concept must be demonstrated to the satisfaction of the utilities and regulatory authorities either based upon previous experience or through the construction and operation of one or more demonstration plants.
- o Design Certification - Safety Review and Licensing approval by the Nuclear Regulatory Commission must be obtained.

A number of nuclear power plant options are available that meet the design characteristics and objectives previously discussed. Today, these plant options are Advanced Light Water Reactors (ALWRs), Modular High Temperature Gas-Cooled Reactors (MHTGRs) and Liquid Metal Reactors (LMEs). Each of these plant types is characterized by unique design, funding and schedule characteristics and each fulfills a different role in the overall energy future of the nation. A comprehensive nuclear energy plan should incorporate all these plant types to ensure a viable nuclear energy option. These plant types and their characteristics are summarized below:

- a) Advanced Evolutionary Light Water Reactors (up to 1400 MWe)
 - Designs complete, ready for NRC Certification by early 1990's.
 - Proven concepts using simplified designs and simplified safety systems proven on operating plants
 - Minimum investment required until utility selection.

- b) Simplified Passive Light Water Reactors (approximately 600 MWe)
 - Conceptual design complete, detailed design and certification in mid 1990's.
 - Proven concepts using simplified designs and passive safety systems.
 - Some investment needed to develop designs and obtain NRC certification.
- c) Modular Liquid Metal Reactors
 - Provides capability for long range energy security and reduction in long term waste storage requirements.
 - Conceptual design complete and feasibility established.
 - Established technology with several plants in operation and under construction.
 - Investment needed for prototype plant aimed at power and safety demonstration by late 1990's.
- d) Modular High Temperature Gas-Cooled Reactors
 - Offers technological growth potential for high efficiency electrical generation and for process steam/heat.
 - Preliminary design and licensing initiated.
 - Investment needed for prototype plant to assure availability in late 1990's.

Summary and Conclusions

Nuclear power can be beneficially utilized to satisfy the future demand for electric power. The growing recognition that nuclear power has minimal environmental impact moves nuclear power to the forefront as a highly desirable energy option for the foreseeable future. Actions to develop, design and license standard plants are necessary to ensure the security of the nation's energy future. Several attractive nuclear plant designs are available, and their application in the coming decades should be aggressively pursued as a national priority.

This statement was prepared by the Nuclear Engineering Division of the Council on Engineering of the American Society of Mechanical Engineers (ASME). It represents the considered judgment of this Division, a group of engineers with expertise in this field, rather than an official position of ASME.

THE WHITE HOUSE

WASHINGTON

April 12, 1990

Dear Dr. Andersen:

This is a belated reply to your letter of March 8th and your gracious offer to provide an ASME Fellow to the Office of Science and Technology Policy.

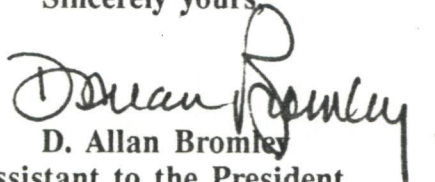
The delay has reflected my efforts to obtain a clear ruling from my office counsel and from the Office of Government Ethics concerning the conditions under which we would find it possible to accept this offer. As I am sure you are aware, these conditions have changed substantially since the early 80's when we had ASME Fellows in OSTP.

I regret to say that I've not received a definitive answer, although I expect to do so in the near future. Let me now then only say that if we can work out the appropriate details, I would be more than delighted to have a fellow here representing your organization. As you know, I have added an Associate Director for Industrial Technology, Dr. William Phillips who has brought experience in the private sector and I know that he would be most enthusiastic, as would I, about welcoming someone whom you would select to represent the American Society of Mechanical Engineers.

I hope that this delay does not inconvenience you and I promise you that I will be back to you as soon as I obtain the necessary information. In the meantime, let me thank you for your offer. We look forward to the possibility of reestablishing a close working relationship with your organization.

With all best wishes,

Sincerely yours,



D. Allan Bromley
Assistant to the President
for
Science and Technology

Dr. John A. Andersen
Vice President, Government Relations
The American Society of Mechanical Engineers
Suite 216
1825 K Street, N.W.
Washington, D.C. 20006-1202

122157



The American Society of
Mechanical Engineers

Suite 216
1825 K Street, N.W.
Washington, DC 20006-1202
202-785-3756

March 8, 1990

Dr. John Sununu
Fellow, ASME
Chief of Staff
The White House

Dr. D. Allan Bromley
Assistant to the President
for Science and Technology
The White House

Gentlemen:

The Government Relations Board of the American Society of Mechanical Engineers is actively considering a proposal to renew our Office of Science and Technology Policy (OSTP) Fellow program, should this meet with your concurrence. In 1982 we placed Tom Pestorius as an ASME OSTP Fellow. Dr. Pestorius served under ASME sponsorship for a year, and then was continued directly by NSF/OSTP for an additional 2 years. This, obviously, was a successful relationship.

Our current thinking is to recruit a small and very select group of candidates, under guidelines suitable to OSTP and ASME, for final selection by OSTP. We plan that this would be a cost-free service to the Government, and we now have seed money for the necessary support from our Washington staff. We believe that it is possible for ASME to find candidates with no industrial ties, if this is of concern to OSTP. It may also be possible to find candidates with current appropriate security clearances.

I would be very pleased to have your thoughts on this important matter.

Yours truly,

A handwritten signature in dark ink, reading "John A. Andersen". The signature is fluid and cursive, with the first name "John" being the most prominent.

John A. Andersen
Fellow, ASME
Vice President, Government Relations

THE WHITE HOUSE
WASHINGTON

May 15, 1990

Dear Dr. Andersen:

This is a further response to your letter of March 8 and mine of April 12 regarding your gracious offer to provide an ASME Fellow to the Office of Science and Technology Policy.

I have now received legal guidance on our policies concerning such an arrangement. Subject to appropriate conflict of interest and other guidelines, I am most happy to be able to accept your generous offer.

Might I recommend that your designee meet with my Chief of Staff, Dr. William Wells, to work out the administrative details. Dr. Wells can be reached at 202/456-2734.

Again, I am delighted by this outcome and look forward to continuing the rewarding relationship OSTP has with the ASME.

Sincerely,


D. Allan Bromley
Assistant to the President
for
Science and Technology

Dr. John A. Andersen
Vice President, Government Relations
The American Society of Mechanical Engineers
Suite 216
1825 K Street, N.W.
Washington, D.C. 20006-1202

cc: Bill Wells

THE WHITE HOUSE

WASHINGTON

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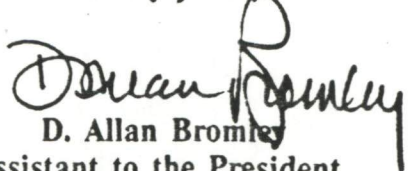
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March 8, 1990

Dr. John Sununu
Fellow, ASME
Chief of Staff
The White House

Dr. D. Allan Bromley
Assistant to the President
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The White House

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John A. Andersen
Fellow, ASME
Vice President, Government Relations