

# FOIA Marker

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## Council of Economic Advisers

Hubbard, R. Glenn - Subject Files

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	30	13	5	1	5648	18583	1403	1551

Folder Title:

Office of Management and Budget [4]

# Withdrawn/Redacted Material

## The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Memorandum - To: Department Heads and Agencies - From: John H. Marburger III , Mitch Daniels	14	05/30/2002	P5;
002	Email	Legislative Referral Memorandum - To: Justice - From: Erin P. Hassing	2	05/16/2002	P5;
003	Memorandum	[CEA Reply to] Memorandum for Designated Agency Heads	1	04/30/2002	P5;
004	Memorandum	Memorandum for Designated Agency Heads - From: Philip J. Perry	1	04/29/2002	P5;
005	Executive Order	[Proposed Executive Order]	1	N.D.	P5;
006	Note	Hand Written Note with attachments - From: Mitch E. Daniels	11	08/16/2001	P5;

**COLLECTION TITLE:**

Council of Economic Advisers

**SERIES:**

Hubbard, R. Glenn - Subject Files

**FOLDER TITLE:**

Office of Management and Budget [4]

**FRC ID:**

5648

### RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

**Deed of Gift Restrictions**

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
007	Memorandum	Faxed Legislative Referral Memorandum - To: CEA - From: James A. Brown	6	07/27/2001	P5;
008	Memorandum	Faxed copy and original Memorandum - To: Mac Reed - From: R. Glenn Hubbard	2	07/25/2001	P5;
009	Memorandum	Memorandum - To: Agency Heads - From: Jay P. Lefkowitz	1	07/19/2001	P5;
010	Draft	Draft Executive Order	11	07/19/2001	P5;
011	Memorandum	Memorandum with attachments - To: Agency Heads - From: Jay P. Lefkowitz	13	07/20/2001	P5;

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2014-0342-F

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SS/ RM NO. \_\_\_\_\_

**WHITE HOUSE STAFFING MEMORANDUM**

Date: 5-31-02 2:45 PM ACTION / CONCURRENCE / COMMENT DUE BY: 6-1-02 3:00 PM

Subject: REALLOCATION OF FUNDS PROVIDED IN P.L. 107-38

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUBBARD 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUGHES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BARTLETT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IRASTORZA	<input type="checkbox"/>	<input type="checkbox"/>
BLAKEMAN	<input type="checkbox"/>	<input type="checkbox"/>	JOHNSON	<input type="checkbox"/>	<input type="checkbox"/>
BOLTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	LINDSEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRIDGELAND	<input type="checkbox"/>	<input type="checkbox"/>	MARBURGER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CALIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MIERS	<input type="checkbox"/>	<input type="checkbox"/>
CONNAUGHTON	<input type="checkbox"/>	<input type="checkbox"/>	RICE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RIDGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FLEISCHER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROVE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GERSON	<input type="checkbox"/>	<input type="checkbox"/>	SPELLINGS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GONZALES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAWKINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO BETH ROSSMAN, EXTENSION 54790/FAX 53729, BY 3:00 PM TOMORROW AND SEND A COPY TO THE STAFF SECRETARY. THANK YOU.

*CEA has no comment*

RESPONSE:

Harriet E. Miers  
 Assistant to the President  
 and Staff Secretary  
 Ext. 62702

Estimate No. \_\_\_\_\_  
107th Congress, 2nd SessionEXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

THE DEPUTY DIRECTOR

May 31, 2002

The President

The White House

Submitted for your consideration is a request to reallocate funds provided in P.L. 107-38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, FY 2001. This request would reallocate funds previously transferred from the Emergency Response Fund (ERF) to the Department of Defense (DOD) and now transfer those funds to the Broadcasting Board of Governors (BBG).

Your request to the Congress of September 21, 2001, transferred funds to DOD for initial crisis response. In light of changing security needs, the Administration now believes that a portion of these funds would be better used to finance high-powered radio transmission capability in Afghanistan to support U.S. international broadcasting activities and broadcasts by the Afghan government. Establishing a 400-kilowatt medium wave (AM) transmitting system in Kabul is the most effective means of ensuring nighttime radio coverage of virtually the entire country. These funds will be used for the purchase and installation of transmitters and associated infrastructure, as well as operational costs. This proposal would reallocate \$10.2 million from DOD to BBG for these activities. Pursuant to P.L. 107-38, these funds would be available immediately.

I have carefully reviewed this proposal and am satisfied that it is necessary at this time. Therefore, I join the the Broadcasting Board of Governors and the Secretary of Defense in recommending your approval of the requested reallocation.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy P. Dorn".

Nancy P. Dorn  
Deputy Director

Enclosure

02 4019 01 0000

THE WHITE HOUSE  
WASHINGTON

Dear Mr. Speaker:

In furtherance of the provisions of Public Law 107-38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, FY 2001, today I am notifying Congress of my intent to reallocate funds previously transferred from the Emergency Response Fund.

As provided in Public Law 107-38, \$10.2 million will be made available immediately to the Broadcasting Board of Governors (BBG). These funds, originally transferred to the Department of Defense, will support an urgent requirement for radio transmitters in Afghanistan.

The details of this action are set forth in the enclosed letter from the Deputy Director of the Office of Management and Budget. I concur with the attached comments and recommendations.

Sincerely,

The Honorable J. Dennis Hastert  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

Enclosure

**REALLOCATION OF AMOUNTS PREVIOUSLY APPROPRIATED AND TRANSFERRED FROM THE EMERGENCY RESPONSE FUND**

Broadcasting Board of Governors (BBG)

International Broadcasting Operations.....	\$1,600,000
Broadcasting Capital Improvements.....	\$8,600,000

The President's request to the Congress of September 21, 2001, transferred funds to the Department of Defense for initial crisis response. In light of changing security needs, the President is now reallocating \$10.2 million to the BBG to support U.S. international broadcasting activities and broadcasts by the Afghan government. These funds will be used for the purchase and installation of transmitters and associated infrastructure, as well as related operational costs. Pursuant to P.L. 107-38, these funds would be available immediately.

SS/ RM NO. \_\_\_\_\_

### WHITE HOUSE STAFFING MEMORANDUM

Date: 05-21-02 1:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 05-21-02 2:30 PM

Subject: FY 2002 SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF VETERANS AFFAIRS (VA) AND THE LEGISLATIVE BRANCH

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUBBARD →	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUGHES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BARTLETT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IRASTORZA	<input type="checkbox"/>	<input type="checkbox"/>
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DANIELS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RIDGE	<input type="checkbox"/>	<input type="checkbox"/>
FLEISCHER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROVE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GERSON	<input type="checkbox"/>	<input type="checkbox"/>	SPELLINGS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GONZALES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAWKINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

PLEASE FORWARD COMMENTS TO BETH ROSSMAN BY 2:30 P.M., TODAY, TUESDAY, MAY 21, 2002, X54790, CELL (202) 395-2173, OR FAX 53729, WITH A COPY TO THE STAFF SECRETARY'S OFFICE, X62702, OR FAX 62215. THANK YOU.

RESPONSE:

*CEA has no comment*

Harriet E. Miers  
Assistant to the President  
and Staff Secretary  
Ext. 62702

Estimate No. \_\_\_\_\_  
107th Congress, 2nd SessionEXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

THE DIRECTOR

The President

The White House

Submitted for your consideration are requests for FY 2002 supplemental appropriations for the Department of Veterans Affairs (VA) and the Legislative Branch, as well as a request to make available previously appropriated contingent emergency funds for the Department of the Interior (DOI).

FY 2002 Supplementals

The FY 2002 supplemental request for VA would provide an additional \$1.1 billion, which is necessary to ensure payment of mandatory disability compensation and pension benefits to veterans and their families. Accelerating the consideration of backlog claims necessitates this technical change and does not affect the discretionary spending cap and is not subject to pay-as-you-go requirements.

The FY 2002 Budget anticipated a higher number of payments because of your initiative to speed up the processing time for veterans' disability claims: VA performance has exceeded those expectations. When a new disability or pension claim is approved the veteran receives a monthly check and a lumpsum retroactive check for all payments back to the date that the claim was initially submitted. The retroactive lumpsum payments, as well as the new monthly benefits to be paid are now estimated to be \$1.1 billion more than anticipated. Absent this adjustment, there would be insufficient funds in September to pay the benefits of 2.5 million veterans.

This request draws attention to a requirement for legislative action. Your FY 2003 Budget requested an appropriation for an indefinite amount for VA's entitlement programs similar to the treatment of other mandatory programs. Indefinite appropriations language for VA's disability compensation, pension, burial, education, insurance, and vocational rehabilitation programs would eliminate the need for future incremental appropriations and ensure that veterans promptly receive the benefits this Nation owes them.

This transmittal also contains requests for FY 2002 supplemental appropriations, totaling \$7.9 million, for the Legislative Branch. As required by law, appropriation requests for the Legislative Branch are transmitted without change.

Emergency Designation

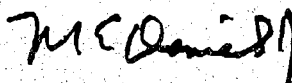
Title I of P.L. 107-63, the Department of the Interior and Related Agencies Appropriations Act, 2002, provided \$54.0 million in contingent emergency funding to DOI's Bureau of Land Management to address wildland firefighting needs. Your approval of this request would make these funds available for emergency fire suppression and burned area rehabilitation.

I recommend that you designate this request for \$54.0 million as an emergency requirement in accordance with section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. No further congressional action will be required.

Recommendation

I have carefully reviewed these proposals and am satisfied that they are necessary at this time. Therefore, I join the Secretaries of the Departments of the Interior and Veterans Affairs in recommending that you transmit these proposals to the Congress.

Sincerely,



Mitchell Daniels, Jr.  
Director

Enclosures

THE WHITE HOUSE  
WASHINGTON

Dear Mr. Speaker:

I ask the Congress to consider the enclosed request for an FY 2002 supplemental appropriation for the Department of Veterans Affairs (VA). This request is for an increase in the mandatory cost of disability compensation and pension benefits for veterans.

During the current year, VA has made dramatic improvements processing claims, significantly accelerating the rate of payments. This supplemental request for \$1.1 billion is needed to help pay the benefits associated with reducing the backlog of claims from previous years. Absent this adjustment, there would be insufficient funds in September to pay the 2.5 million veterans who are entitled to benefits.

This transmittal also contains requests for FY 2002 supplemental appropriations for the legislative branch. As a matter of comity, appropriations requests of the legislative branch are transmitted without change.

Furthermore, in accordance with provisions of Public Law 107-63, the Department of the Interior and Related Agencies Appropriations Act, 2002, I hereby request and make available \$54.0 million in emergency appropriations for the Department of the Interior's Bureau of Land Management. These emergency funds will be used to undertake necessary rehabilitation projects on lands damaged by wildland fires and to support fire suppression activities. I hereby designate this amount as an emergency requirement in accordance with section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

2

The details of these requests are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Sincerely,

The Honorable J. Dennis Hastert  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

Enclosure

DEPARTMENT OF VETERANS AFFAIRS  
VETERANS BENEFITS ADMINISTRATION

Compensation and Pensions

For an additional amount for "Compensation and Pensions," \$1,100,000,000, to remain available until expended.

This proposal would provide an additional \$1.1 billion to ensure payment of mandatory disability compensation and pension benefits to veterans and their families. Dramatic improvements in processing of older claims, and the associated number of back payments, have resulted in more claims than projected for FY 2002. Absent this adjustment, there would be insufficient funds to pay all of these mandatory benefits for the remainder of the current fiscal year.

LEGISLATIVE BRANCH  
GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

For an additional amount for "Congressional Printing and Binding," \$5,875,000.

This request would support unanticipated Congressional Printing and Binding funding requirements based on current workload. This activity provides information products and services requested by, and delivered to, the Congress.

LEGISLATIVE BRANCH  
GOVERNMENT PRINTING OFFICE

Government Printing Office Revolving Fund

For payment to the "Government Printing Office Revolving Fund," for remediation of asbestos in Government Printing Office buildings, \$2,000,000, to remain available until expended.

This request would provide \$2.0 million to fund asbestos abatement in Government Printing Office buildings. This is necessary to ensure the safety of employees and members of the public and to comply with standards requiring the abatement of friable asbestos.

**EMERGENCY APPROPRIATIONS: AMOUNTS PREVIOUSLY APPROPRIATED  
MADE AVAILABLE BY THE PRESIDENT**

Department of the Interior (DOI)

Bureau of Land Management

Wildland Fire Management.....\$54,000,000

Title I of P.L. 107-63, the Department of the Interior and Related Agencies Appropriations Act, 2002, provided \$54.0 million to DOI for emergency wildland firefighting needs. The availability of this funding was contingent upon the President submitting a budget request to the Congress and designating the entire \$54.0 million as an emergency requirement. The President has designated this amount as an emergency requirement, making the funds available for emergency fire suppression and burned area rehabilitation.

MODE = MEMORY TRANSMISSION

START=MAY-17 13:57

END=MAY-17 13:58

FILE NO.=449

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	*	56148	002/002	00:00:29

-EOP-CEA

\*\*\*\*\* -EOP-CEA - \*\*\*\*\* 202 395 6958- \*\*\*\*\*

*Kate*  
*From Diane*

From: Erin P. Hassing on 05/16/2002 03:05:45 PM

Record Type: Record

To: justice.lrm@usdoj.gov , llr@do.treas.gov

cc: See the distribution list at the bottom of this message

Subject: LRM EPH150-- Office of Personnel Management Report on Extending FEGLI benefits to Article III Judges

*CEA Comments are attached*  
*KB*

LRM ID: EPH150

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Thursday, May 16, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference  
OMB CONTACT: Erin P. Hassing  
PHONE: (202)395-3459 FAX: (202)395-6148

SUBJECT: Office of Personnel Management Report on Extending FEGLI benefits to Article III Judges

DEADLINE: COB Monday, May 20, 2002

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review are OPM's letter and the draft bill to which it refers. OPM received an advance copy of the draft bill and was asked to comment on it before its introduction. Please submit all comments by COB Monday, May 20th.



OPM Letter and Shay DB.PD

DISTRIBUTION LIST

AGENCIES:  
061-JUSTICE - Daniel Bryant - (202) 514-2141  
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:  
WHGC LRM  
OVP LRM  
James C. Capretta

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

THE DIRECTOR

May 3, 2002

M-02-08

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Mitchell E. Daniels, Jr. *MED, Jr.*  
Director

SUBJECT: Redundant Information Systems Relating to On-Line Rulemaking Initiative

One of the key goals of the President's E-Government initiative is to make it easy for citizens to get service from their government. At the top of the list must be making it easier for citizens and businesses to participate in the regulatory process. Accordingly, the On-Line Rulemaking Management E-Government initiative (OLRM) is focused on creating a simple web-based tool for viewing and commenting on proposed regulations. The potential benefit to citizens and businesses in this area is dramatic. A recent E-Government survey by the Pew Foundation showed that 23 million Americans used the Internet to comment on proposed government rules, regulations, and policies in 2001.

The purpose of this memorandum is to advise agency heads of our intention to consolidate redundant IT systems relating to the President's on-line rulemaking initiative. Redundant systems make it difficult to find and comment on the large number of proposed regulations and create performance gaps in the form of reduced customer service and lead to duplicative spending. Consolidating technology investments will better serve citizens by decreasing existing islands of automation and minimizing government costs.

Pursuant to Section 5113 of the Clinger-Cohen Act of 1996, OMB is required to evaluate information resources management practices of the executive agencies with respect to the performance and results of information technology investments. OMB has already identified several potentially redundant systems across the federal government that relate to the rulemaking process. In some cases, these systems may have purposes other than regulatory development; this initiative focuses on the regulatory development process. Spending on these systems totals nearly \$28 million in 2002 and is projected to grow to more than \$32 million in 2003. A list of such systems includes but is not limited to the following:

<u>Agency</u>	<u>System</u>	<u>FY '02</u>	<u>FY '03</u>
DOT	Docket Management System	--	--
DOL/OSHA	Technical Information and Retrieval System	\$1.2 million	\$1.3 million
DOD	Electronic Rulemaking Management System	--	--
EPA	Regulatory Public Access System	\$2.9 million	\$2.9 million

GSA/OMB	RISC/OIRA Consolidated Information System	\$2.0 million	\$2.0 million
HHS/FDA-CBER	Electronic Document Room	\$1.73 million	\$7.2 million
HHS/FDA-CFSAN	Food Additive Regulatory Management System	\$1.7 million	\$1.45 million
HHS/FDA	Agency Information Management System	\$2.28 million	\$1.59 million
USDA	APHIS Information Technology Infrastructure	\$15.9 million	\$15.9 million

The Department of Transportation, the Managing Partner of the OLRM initiative, is working with the other initiative partners to develop a new business case that will include a technical assessment of the various systems and for integration of the Federal Register's e-docket system with FirstGov. OMB is reviewing funding that supports online rulemaking as well as other related technology investments and similar efforts in other agencies. OMB staff may contact your agency for help in obtaining this information. Once these funds are identified, OMB (working with the OLRM initiative team) will conduct analysis, identify redundant technology investments, and see if any agency achievements could serve as "best practices" for the OLRM initiative. Please take whatever steps are necessary to facilitate your agency's response to this effort.

Under the first phase of this initiative, OMB will review the business cases for the identified redundant systems and work closely with the OLRM initiative team to develop the criteria for conducting the technical assessment. The assessment and business case will document on-line features and functions needed for citizens to easily find and comment on proposed regulations. Based on the results from the assessment, a single, front-end web application for receiving public comments on proposed agency rules will be leveraged and used by federal rulemaking agencies. Phase I of the OLRM will be completed by December 31, 2002.

Following phase I, the assessment will also document the capability of any "back-end" regulatory/knowledge management system that is currently being utilized or developed by the agencies as part of phase II. Phase II will consolidate duplicative "back-end" information technology systems and deploy an integrated solution built on an existing system and processes. Phase II is expected to be completed by December 31, 2003.

Pursuant to section 5113(b)(5)(B) of the Clinger Cohen Act, affected agency IT spending for on-line rulemaking systems must conform to the OLRM program plan. OMB will apportion funds consistent with a migration plan developed by the OLRM initiative team and approved by the President's Management Council.

The OMB point of contact for this initiative is Tad Anderson, Government-to-Business Portfolio Manager, 202-395-7923, [stanton.anderson@omb.eop.gov](mailto:stanton.anderson@omb.eop.gov).



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

May 3, 2002

THE DIRECTOR

M-02-07

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

FROM: Mitchell E. Daniels, Jr. *MED.J.*

SUBJECT: Procurement of Printing and Duplicating through the Government Printing Office

This memorandum sets forth Executive Branch policy with respect to the use of the Government Printing Office (GPO) in handling departmental and agency printing and duplicating needs.

The GPO is a congressional entity controlled by the Joint Committee on Printing. While GPO was originally created to fulfill the printing needs of Congress, Congress has since expanded the role of GPO by requiring that essentially all Executive Branch printing, binding, and substantial reproduction be done by or through GPO.<sup>1</sup> In 1996, however, the Department of Justice's Office of Legal Counsel issued an opinion concluding that Congress *could not* constitutionally obligate Executive Branch departments and agencies to utilize GPO.<sup>2</sup> Nonetheless, to date the Executive Branch has taken no actions to introduce competition into Executive Branch printing. The time has come for the Executive Branch to liberate its agencies from a monopoly that unfairly penalizes both taxpayers and efficient would-be competitors.

In FY 2001, GPO charged federal departments and agencies \$553 million for printing and duplicating. The vast majority of these costs, however, were for work that GPO contracted out to the private sector. Indeed, in FY 2001, GPO performed only 16% of this printing work in-house, and contracted with private printing enterprises for the remaining 84%. When GPO contracts out with the private sector, it:

- charges the department or agency for the cost of the private printing *plus* a 7% premium, which doubles to 14% if lead time is ten or fewer days;<sup>3</sup>
- charges an additional processing fee of \$7.50-\$15.00 per order, and

<sup>1</sup> See 44 U.S.C. § 501 and other authorities. At times, GPO has also interpreted this authority as covering electronic transmissions, such as dissemination by publication on websites.

<sup>2</sup> See Memorandum from Walter Dellinger, Assistant Attorney General, to Emily C. Hewitt, General Counsel, General Services Administration, May 31, 1996 at 1.

<sup>3</sup> GPO charges a 7% to 14% premium for contracted work until it recoups \$20,000 (which occurs on work orders priced over \$285,715). After GPO recovers the initial \$20,000 premium amount, the 7% to 14% premium decreases to 0.5% for the duration of the price of the order.

- retains all discounts for prompt payment (usually around 5%) offered by private printers, rather than passing this savings to the department or agency.

These premiums and fees combined likely cost the Executive Branch *\$50 million to \$70 million per year*, if not more, for work that GPO contracts out to private printers. And even when GPO performs the work in-house, GPO charges departments and agencies a 35% premium if the lead time is ten or fewer days.

While the Executive Branch has long recognized GPO's technical expertise in many specialized areas, rapid developments in information technology have "chang[ed] the way words and images are put on paper" and "blurr[ed] traditional notions of printing and duplicating."<sup>4</sup> These developments have led past Administrations, and even the Legislative Branch, to re-evaluate the role of the GPO in Executive Branch printing and duplicating over the past decade. In 1994 President Clinton stated that comprehensive reform of Federal printing could "improve the efficiency and cost-effectiveness of Government printing by maximizing the use of private sector printing capability through open competitive procedures and by limiting Government-owned printing resources to only those necessary to maintain a minimum core capacity."<sup>5</sup> More recently, David M. Walker, Comptroller General of the United States, testified:

GPO's monopoly-like role in providing printing services perpetuates inefficiency because it permits GPO to be insulated from market forces and does not provide incentives to improve operations that will ensure quality services at competitive prices. Federal agencies could be given the authority to make their own printing policies, requiring GPO to compete with private sector printing service providers.<sup>6</sup>

It is the policy of this Administration to ensure that the federal government receives the best possible deal when spending taxpayers' money. Taxpayers tend to benefit most from open competition, rather than government monopolies. Accordingly, Executive Branch departments and agencies should not be *required* to select GPO when more efficient and cost-effective options are available through the private sector or other avenues. As a matter of Administration policy, Executive Branch departments and agencies should address their printing and duplicating needs under the following guidelines:

- Executive Branch departments and agencies should select printing and duplicating services based upon the best quality, cost, and time of delivery.

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<sup>4</sup> Memorandum from then Acting OMB Director Alice M. Rivlin to Heads of Departments and Agencies, September 19, 1994 at 1 ("Rivlin Memo").

<sup>5</sup> Statement on Signing the Legislative Branch Appropriations Act of 1995, 30 Weekly Comp. Pres. Doc. 1541 (July 22, 1994). See also Rivlin Memo at 1 (stating that government printing reform "should improve the efficiency and cost effectiveness of government printing and duplicating by maximizing the use of private sector printing and duplicating capability through open competitive procedures").

<sup>6</sup> See Statement of David M. Walker, U.S. Senate Committee on the Budget, February 1, 2000 at 6-7.

- If GPO can provide the better combination of quality, cost, and time of delivery, and if the criteria of 31 U.S.C. § 1535 and 48 CFR § 17.503 (if applicable) are met, then Executive Branch departments and agencies may continue to use GPO printing services. Whenever the private sector can provide the better combination of quality, cost, and time of delivery, the department or agency should contract with the private sector. This policy applies to printing or duplicating orders that are valued at more than \$1,000 or that are of a continuing or repetitive nature.<sup>7</sup> The OMB Office of Federal Procurement Policy will make available more detailed guidance on applicable procedures and practices before this policy takes effect.
- Subject to OMB Circular A-76, Executive Branch departments and agencies may rely upon agency in-house printing and duplicating operations and agency cross-servicing arrangements only when such in-house operations and agency cross-servicing arrangements offer the best combination of quality, cost, and delivery, based upon a *full account of all costs*. Otherwise, Executive Branch departments and agencies should use GPO or private contractors.
- Departments and agencies are to provide an annual report to the Director of the Office of Management and Budget on the overall cost of their printing and duplicating operations. Reports are to include a full accounting of all costs of work performed by GPO, work performed in-house, and work contracted directly to the private sector.<sup>8</sup>

Accordingly, OMB is recommending that the Federal Acquisition Regulatory Council amend 48 CFR Subpart 8.8 to reflect this policy. Executive Branch departments and agencies that are subject to the Federal Acquisition Regulation should comply with the policies set forth herein upon publication of a FAR rule implementing this Memorandum. All other Executive Branch departments and agencies should comply with the policies set forth in this Memorandum on or before September 1, 2002. For questions regarding changes to 48 CFR Subpart 8.8 or other related acquisition issues, please contact Mr. Robert Burton, Acting Associate Administrator of OMB's Office of Federal Procurement Policy, at 202-395-3302.

<sup>7</sup> This policy does *not* apply to printing for the Central Intelligence Agency, the Defense Intelligence Agency, National Imagery and Mapping Agency, the National Security Agency, or other printing that, for reasons of national security, a head of a department or agency determines should not be contracted out to GPO or to the private sector.

<sup>8</sup> Departments and agencies shall continue to ensure that all government publications, as defined in 44 U.S.C. Part 19, are made available to the depository library program through the Superintendent of Documents.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[CEA Reply to] Memorandum for Designated Agency Heads	1	04/30/2002	P5;

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Council of Economic Advisers

**SERIES:**

Hubbard, R. Glenn - Subject Files

**FOLDER TITLE:**

Office of Management and Budget [4]

**FRC ID:**

5648

**OA Num.:**

1551

**NARA Num.:**

1403

**FOIA IDs and Segments:**

2014-0342-F

**RESTRICTION CODES****Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

February 27, 2002

M-02-04

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

Angela B. Styles  
Administrator

SUBJECT:

Year 2002 Inventory of Commercial Activities

The "Federal Activities Inventory Reform Act of 1998," P.L.105-270 (the FAIR Act), requires Federal agencies to prepare and submit to OMB, by June 30 of each year, inventories of their commercial activities performed by Federal employees. OMB is required to review each agency's inventory and consult with the agency regarding its content. Upon completion of the review and consultation, OMB is required to list the available inventories in the *Federal Register* and the agency head must transmit a copy of the inventory to the Congress and make it available to the public. The FAIR Act then establishes a two-step administrative challenge and appeals process under which an interested party may challenge an agency head's omission or inclusion of a particular activity on the inventory.

The President's Management Agenda highlights this Administration's government-wide management initiatives, including the need to expand competition and to produce a more accurate FAIR Act inventory of commercial functions performed by federal employees. OMB has made important changes to the process to streamline and improve the effectiveness of this important information. Please ensure that your inventories, as described below, are received by OMB not later than June 30, 2002. The year 2002 inventory will be the fourth FAIR Act inventory of commercial activities.

The Year 2002 agency inventories will be submitted in accordance with the guidance issued last year with several amendments, as follows. Last year's guidance can be found at the OMB website at: <http://www.whitehouse.gov/omb/procurement/fair-index.html>.

1. The Year 2002 Inventory format is attached. To improve the consistency of commercial and inherently governmental inventories on a government-wide basis, agencies will submit their 2002 inventories to OMB using the Excel spreadsheet that is available on the OMB web-site. This spreadsheet and the associated worksheets, include information to help agencies compile and verify the accuracy of their inventories and will permit OMB to analyze inventories within and across agencies. Each agency shall submit a completed spreadsheet, via email, to their OMB Resource Management Office representative and to Office of Federal Procurement Policy (OFPP). Each agency will also send one hard copy of the inventory to the same points of contact.

2. The Function/Activity Codes to complete the 2002 FAIR Act inventory of commercial activities are provided on the OMB website. The Function Codes provide a standardized tool for an agency to describe activities as commercial or inherently governmental in nature, based on the agency's application of the criteria in OFPP Policy Letter 92-01 and the FAIR Act. Agencies must use the listed OMB Function Codes in their June 2002 submission, unless a deviation is approved, in advance, by OMB.
3. A list of OMB Function Code definitions developed by the Department of Defense is provided for agency use on the OMB website. Civilian agencies may use these definitions or may tailor them to reflect their individual missions and requirements. Use of these definitions will facilitate consistency within and across agencies.
4. For 2002, agencies will provide to OMB a single inventory submission that reflects both the agency's civilian inherently governmental FTE and civilian commercial FTE, by location and function. Upon completion of OMB's review and consultation with the agency regarding the content of this submission, each agency shall provide a separate report listing only the agency's commercial civilian FTE to the Congress and the public in accordance with the requirements of the FAIR Act. Agencies should anticipate the possibility that after review and consultation, OMB may request the release of inherently governmental inventories.
5. Each agency will include the following as a part of their Year 2002 Annual Report on Agency Management of Commercial Activities, required at Appendix 2, paragraph I., of the OMB Circular A-76 Revised Supplemental Handbook:
  - A summary table showing the total number of commercial FTE and inherently governmental FTE by department/agency and by sub-agency/bureau, with respective percentages. This summary will reflect the same departmental, agency and sub-bureau designations as provided in the inventory.
  - A summary table showing the total number of commercial FTE and inherently governmental FTE funded through reimbursable agreements, by department/agency and by sub-agency/bureau. Total direct funded and reimbursable funded FTE are provided on one of the worksheets available on the OMB web-site.
  - As noted in the President's August 2001 Management Agenda, the Competitive Sourcing Initiative begins with the development of a complete and accurate FAIR Act inventory of commercial activities. As a result of these amendments, OMB expects to conduct a more thorough review of agency inventory submissions and will seek improved consistency within and among agencies in the determination of what is commercial or inherently governmental. The OFPP Policy Letter 92-1, dated September 23, 1992 (*Federal Register*, September 30, 1992, page 45096), provides detailed guidance on the identification of inherently governmental

activities. In conducting its statutory review and consultation regarding the 2002 submissions, OMB will also focus on the following:

- Does the inventory reflect complete, separable and recurring commercial functions? FTE should not be eliminated from the FAIR Act inventory based upon existing organizational structures, if doing so would result in the elimination of work that would otherwise be included in the scope of a full performance service contract.
- Is the use of Reason Code "A" justified? The use of Reason Code "A" should be the exception and not the rule for any agency FAIR Act inventory. OMB may request copies of the required written justifications signed by the agency head for each application of Reason Code "A."
- Has Reason Code "C" been properly applied? OMB has included, as a part of the 2002 FAIR Act Inventory worksheets, a detailed break-out of Reason Code "C."

Please address any questions regarding the development of the Year 2002 FAIR Act inventory or the 2002 inventory of inherently governmental positions to Mr. David Childs, Office of Federal Procurement Policy, at (202) 395-6104.

Attachment

## Content and Format of Inventories

To improve the consistency of commercial and inherently governmental inventories on a government-wide basis, agencies will submit FY 2002 inventories to OMB using an Excel spreadsheet. The spreadsheet is available from the OMB website at: <http://www.whitehouse.gov/omb/procurement/fair-index.html>. The information required in the 2002 submissions is described below.

Each department and agency will submit a completed spreadsheet via email to their normal points of contact in OMB's Resource Management Organization and OFPP. Each department and agency will also send one hard copy of the inventory to the same points of contact.

<b>Organizational unit</b>		
Agency	Enter 3-Digit Agency Code published in Circular A-11, Appendix C.	3-char limit
Bureau	Enter Bureau Code published in Circular A-11, Appendix C.	2-char limit
Organization Unit abbreviation	Enter Abbreviation that corresponds to the agency and bureau, e.g., FHA could be used for the Federal Highway Administration in the Department of Transportation.	15-char limit
<b>Location</b>		
City	Enter City Name	25-char limit
State	Enter Two letter Abbreviation used by the US Postal Service. Abbreviations are provided at: <a href="http://new.usps.com/cgi-bin/uspsbv/scripts/content.jsp?D=14435#abbr">http://new.usps.com/cgi-bin/uspsbv/scripts/content.jsp?D=14435#abbr</a>	Blank when the location is <u>not</u> in the United States.
Country	Enter US - United States Spell out all other countries	
<b>Status of Full-Time Equivalent Employees (FTEs)</b>		
FTEs	Enter FTEs for the activity. Round to the nearest whole number.	See Additional Notes below.
Activity Function Code	Enter a Function Code for each applicable Status Code.	See Attachment 2 of this memorandum for valid codes.

Status	Enter C - Commercial or I - Inherently governmental	The new data element allows agencies to submit a single Year 2002 Report to OMB.
Reason Code	Enter the Reason Code for Commercial Activity (Status) functions only - reason that it is subject or not subject to cost comparison or direct conversion.	Reason codes appear in Appendix 2 of the A-76 RSH and OMB M-00-11.
Reason Sub Code	When using Reason Code "C," enter a reason sub-code that annotates the reason.  Use <b>only</b> with Reason Code "C."	See Additional Notes below.
<b>Additional Information</b>		
Year that activity first appeared on FAIR Act Inventory	Enter year. Initial value was 1999. Applies only to commercial Activities - Required by FAIR Act.	Blank when the status (above) is inherently governmental.
Year of Cost Comparison or Conversion Decision	Applicable to commercial function status only.	Blank when not applicable.
CIV/FTE savings in thousands	Enter FTEs. Round to nearest whole number.	Zero when not applicable.
Estimated annualized cost comparison savings in thousands	Enter dollars.	Zero when not applicable.
Date of Completed Post-MEO Performance Review	Enter year. Applicable to commercial function status only.	Leave blank if not performed.
<b>Contact Information (for Federal employee(s) knowledgeable of program)</b>		
Contact Last Name	Enter name of person responsible for activity or contact person for commercial and inherently governmental status.	20-char limit
Contact First Name		15-char limit
Contact Prefix	Optionally enter Miss, Mr., Ms., Mrs.	5-char limit
Contact Suffix	Optionally enter Jr., Sr., II, III	5-char limit
Contact E-Mail		35-char limit
Contact Phone No.		20-char limit

## ADDITIONAL NOTES:

### 1. FTEs

The inventory format that agencies will download from OMB's website includes the total number of FTEs published in the current year column of the President's Budget. Agencies must provide a separate written explanation if the FTEs listed on their inventory submission (both commercial and inherently governmental) do not match, when aggregated at agency\bureau, the current year FTE levels published in the Presidents Budget.

### 2. APPLICATION OF NEW REASON CODE "C" SUB-CODES

Agencies will use the following sub-codes for each function that is assigned Reason Code "C."

<b>Sub-code</b>	<b>Description</b>
<b>ExecOrder</b>	<u>Executive Order</u> . The Executive Order should be provided as a part of the accompanying Management Plan.
<b>Defense</b>	<u>National Defense/Security Determination</u> . The written determination should be provided as a part of the Management Plan.
<b>Patient</b>	<u>Direct Patient Care</u> . The written determination should be provided as a part of the Management Plan.
<b>Core</b>	<u>Core Capability</u> .
<b>R&amp;D</b>	<u>Research and Development</u> .
<b>NSCSA</b>	<u>No satisfactory Commercial Source Available</u> . The written determination should be provided as a part of the Management Plan.
<b>LE10FTE</b>	<u>Ten or Fewer FTE</u> .
<b>IPSAM</b>	<u>Industry Performance Standards Are Met</u> . The written determination should be provided as a part of the Management Plan.

### 3. REPORTING EXEMPTIONS GRANTED BY CONGRESS

The OMB Circular No. A-76 -- Revised Supplemental Handbook allows agencies to use Reason Code "C" to exempt FTEs by Congress. Agencies must use Reason Code "G" to show FTEs that are exempt by Congress as a result of legislation.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

February 7, 2002

MEMORANDUM FOR DESIGNATED AGENCY HEADS  
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Rebecca Beynon  
Acting General Counsel *RBey*

SUBJECT: Proposed Executive Entitled "President's Board of Advisors on Historically Black Colleges and Universities"

Attached is a revised proposed executive order entitled "President's Board of Advisors on Historically Black Colleges and Universities," which was prepared by the White House Domestic Policy Council. It was revised based on comments received by the agencies pursuant to the September 10, 2001, circulation of the order

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposal. If you have any comments or objections, they should be received no later than 12:00 noon, Friday, February 8, 2002. Please be advised that agencies that do not respond by the deadline will be recorded as not objecting to the proposal.

Comments or inquiries may be submitted by telephone to Mr. Mac Reed (202-395-3563) of this office or fax to 202-395-7294.

Thank you.

Attachments - Distribution List  
Proposed Executive Order

cc: Mitch Daniels	Mark Everson
Mark Forman	John Graham
Austin Smythe	Steve McMillin
Jim Capretta	Marcus Peacock
Robin Cleveland	Eric Pelletier
Trent Duffy	Amy Smith
Dick Emery	Angela Styles

*No Comment -  
phoned in to  
Mac Reed  
2-8  
1140  
per D.F.R.*

*Please \_\_\_\_\_  
call and  
say CEA has  
no comments.*

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Staff Secretary to the President

Honorable Clay Johnson  
Director of Presidential Personnel

Honorable Larry Lindsey  
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Honorable Karl Rove  
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Honorable Nick Calio  
Assistant to the President and  
Director of Legislative Affairs

Honorable Albert Hawkins  
Assistant to the President and  
Cabinet Secretary

Honorable Phillip D. Larsen  
Director  
Office of Administration

DRAFT

2-7-2002

3:00 p.m.

Executive Order

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PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY  
BLACK COLLEGES AND UNIVERSITIES

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to advance the development of the Nation's full human potential, to strengthen the capacity of Historically Black Colleges and Universities to provide the highest quality education, and to increase opportunities for these institutions to participate in and benefit from Federal programs, it is hereby ordered as follows:

Section 1. There is established, in the Office of the Secretary of Education, a Presidential advisory committee that is entitled the "President's Board of Advisors on Historically Black Colleges and Universities" ("Board"). The Board shall prepare and issue an annual report to the President on the results of the participation of Historically Black Colleges and Universities in Federally-sponsored programs. The Board also shall provide advice to the President and to the Secretary of Education ("Secretary") regarding the infrastructure, academic program, and faculty and institutional development needs of Historically Black Colleges and Universities. In the annual report to the President, the Board shall make recommendations on how to increase the private-sector role, including the role of private foundations, in strengthening Historically Black Colleges and Universities. Particular emphasis should be given to enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions.

Sec. 2. The Board shall be appointed by the President. There shall be appointed to the Board sitting presidents of Historically Black Colleges and Universities, representatives of other higher education institutions, business and financial leaders, representatives of private foundations, and secondary school administrators.

Sec. 3. The White House Initiative on Historically Black Colleges and Universities ("Initiative"), located in the Office of the Secretary of Education, shall: (1) provide the staff, resources, and assistance to the Board; (2) assist the Secretary in the performance of the role of

liaison between the executive branch and Historically Black Colleges and Universities; and (3) serve the Secretary in carrying out the responsibilities described in section 6 of this order.

Sec. 4. To carry out the purposes of this order, each executive department and agency identified by the Secretary shall, consistent with applicable law and regulations, enter into appropriate grants, contracts, or cooperative agreements with Historically Black Colleges and Universities. The head of each agency so identified shall establish an annual plan that will establish clear goals for how the agency intends to increase the capacity of Historically Black Colleges and Universities to compete effectively for grants, contracts, or cooperative agreements and to ensure that Historically Black Colleges and Universities benefit from their participation in Federal programs. The agency's annual goal should be clearly reflected in the agency's annual budget submission to the Office of Management and Budget. To facilitate the attainment of the goals established by this section, the head of each agency identified by the Secretary shall provide technical assistance and information to Historically Black Colleges and Universities regarding the program activities of the agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

Sec. 5. Each executive department and agency designated by the Secretary shall appoint a senior official, who is a full-time officer of the Federal Government, to report directly to the department or agency head with respect to department or agency activity under this order, and to serve as liaison to the Board and to the Initiative. To the extent permitted by law and regulations, each executive department and agency designated by the Secretary shall provide appropriate information requested by the Board and Initiative staff pursuant to the order.

Sec. 6. Each executive department and agency designated by the Secretary shall develop an Annual Plan for, and shall document the agency's effort to, increasing the capacity of Historically Black Colleges and Universities to participate in Federally-sponsored programs. Each agency's plan shall describe new or existing agency programs and measurable objectives for proposed agency actions to achieve the purposes of this order. These plans shall be submitted at such time and in such form as the Secretary shall require. In consultation with the participating agencies, the Secretary shall review the plans and develop, with the advice of the Board, an integrated Annual Federal Plan for Assistance to Historically Black Colleges and Universities for submission to, and consideration by, the President. The Secretary shall provide the President of

each Historically Black College and University with a copy of , an opportunity to comment on, the proposed Annual Federal Plan prior to its consideration by the President. Each participating department and agency shall submit to the Secretary, an Annual Performance Report that shall measure each agency's performance against the objectives set forth in the agency's Annual Plan. The Secretary shall be responsible for overseeing compliance with the Annual Federal Plan.

Sec. 7. In developing its Annual Plan, each executive department and agency designated by the Secretary shall emphasize programs and activities that develop the capacity of Historically Black Colleges and Universities to contribute to the development of human capital and to strengthen America's economic and technological base through: (1) infrastructure development and acquisitions for instruction and research; (2) student and faculty doctoral fellowships and faculty development; (3) domestic and international faculty and student exchanges and study-abroad opportunities; (4) undergraduate and graduate student internships; and (5) summer, part-time and permanent employment opportunities.

Sec. 8. Each year, the Board shall report to the President on the progress achieved in enhancing the capacity of Historically Black Colleges and Universities to serve their students, including findings and recommendations for individual departments and agencies in connection with their Annual Performance Reports, as described in section 6 of this order.

Sec. 9. The Board, in consultation with the Department of Education and other executive departments and agencies, shall develop a Private Sector Strategy to assist in the enhancement of Historically Black Colleges and Universities by: (1) increasing voluntary private-sector contributions to support endowment building and general institutional advancement/fiscal stability; (2) improving and enhancing the quality and number of private-sector partnerships focused on academic program development, student achievement and faculty development, cooperative research and development projects, and faculty exchanges; and (3) improving information management, improving facilities, and strengthening academic course offerings.

Sec. 10. (a) The Department of Education shall provide funding and administrative support for the Board.

(b) Members of the Board shall serve without compensation, but shall be reimbursed for all travel expenses, including per diem in lieu of subsistence, as authorized by law;

(c) Insofar as the Federal Advisory Committee Act, as amended, may apply to the Board, the functions of the President under that Act, except for those in section 6 of that Act, shall be performed by the Department of Education, in accordance with the guidelines that have been issued by the Administrator of General Services.

Sec. 11. Executive Order 12876 of November 1, 1993, as amended, is hereby revoked.

THE WHITE HOUSE,



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

CC: CF

THE DIRECTOR

September 4, 2001

M-01-29

MEMORANDUM FOR ALL CABINET OFFICERS AND AGENCY HEADS

FROM: Mitchell E. Daniels, Jr. *Med, Jr.*  
Director

Based on the Mid-Session Review, we are projecting the second largest surplus in history in fiscal year 2001, a surplus slightly greater than that attributable to Social Security. The review factored in the revised economic forecast and the impact of the enacted tax rebate. The remaining surplus will be used to aggressively pay down debt.

To assure this result, we need to stay within the outlay forecast. The President has asked that you carefully monitor the fiscal year-end close out process by enforcing prudent financial management practices. While we must meet obligations consistent with the Prompt Pay Act and other applicable law, we need to impress restraint on our financial managers to limit new obligations between now and September 30, 2001.

In the past, unobligated balances at the end of the year were thought to count against the agency in subsequent budget reviews. Contrary to this perverse notion, let me assure you that OMB will examine fiscal year 2001 unobligated balances with an eye toward increasing the fiscal year 2002 apportionment for priorities which are rephased or deferred to meet the fiscal year 2001 outlay targets. During the fiscal year 2003 budget review, our OMB examiners will not penalize agencies and departments for failure to obligate funds this fiscal year.

Thank you for ensuring responsible spending practices at year's end and throughout the budget cycle.

# Withdrawal Marker

## The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Note	Hand Written Note with attachments - From: Mitch E. Daniels	11	08/16/2001	P5;

**This marker identifies the original location of the withdrawn item listed above.  
For a complete list of items withdrawn from this folder, see the  
Withdrawal/Redaction Sheet at the front of the folder.**

**COLLECTION:**

Council of Economic Advisers

**SERIES:**

Hubbard, R. Glenn - Subject Files

**FOLDER TITLE:**

Office of Management and Budget [4]

**FRC ID:**

5648

**OA Num.:**

1551

**NARA Num.:**

1403

**FOIA IDs and Segments:**

2014-0342-F

**RESTRICTION CODES****Presidential Records Act - [44 U.S.C. 2204(a)]**

- PI National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

**Deed of Gift Restrictions**

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**Records Not Subject to FOIA**

**Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.**



**WHITE HOUSE STAFFING MEMORANDUM**

Date: 8/7/01 ACTION / CONCURRENCE / COMMENT DUE BY: 8/8/01 BY 4:00 PM

Subject: PROPOSED EXECUTIVE ORDER ENTITLED "PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY"

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUBBARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IRASTORZA	<input type="checkbox"/>	<input type="checkbox"/>
HUGHES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JOHNSON	<input type="checkbox"/>	<input type="checkbox"/>
ROVE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	LA MONTAGNE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BOLTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	LINDSEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	MIERS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RICE	<input type="checkbox"/>	<input type="checkbox"/>
BLAKEMAN	<input type="checkbox"/>	<input type="checkbox"/>	CONNAUGHTON	<input type="checkbox"/>	<input type="checkbox"/>
CALIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DIULIO	<input type="checkbox"/>	<input type="checkbox"/>
FLEISCHER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	GERSON	<input type="checkbox"/>	<input type="checkbox"/>
GONZALES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HAWKINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

**REMARKS:**

Please send your comments directly to the Staff Secretary, x62702, no later than 4:00 p.m., Wednesday, August 8, 2001. Thank you.

**RESPONSE:**

*No Comments  
H. Hubbard*

Harriet E. Miers  
Assistant to the President  
and Staff Secretary  
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

August 7, 2001

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM: Mitchell E. Daniels *meD.J.*  
Director

SUBJECT: Proposed Executive Order Entitled "President's Council of Advisors on Science and Technology"

**SUMMARY:** This memorandum forwards for your consideration a proposed executive order that was prepared by the White House National Economic Council. The proposed order would establish an advisory committee on science and technology.

**BACKGROUND:** The proposed order would establish, pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App.), the "President's Council of Advisors on Science and Technology" ("PCAST"). The PCAST would be composed of not more than 25 members, one of whom would be the Assistant to the President for Science and Technology ("Assistant"), and 24 of whom would be appointed by the President. The PCAST members would have diverse perspectives and expertise in science, technology, and the impact of science and technology on the Nation. The Assistant and a non-Federal member designated by the President would co-chair the PCAST.

The PCAST would advise the President, through the Assistant, on matters involving science and technology policy. It would also assist the National Science and Technology Council ("NSTC") in securing private sector participation in the NSTC's activities. The NSTC is a cabinet-level council chaired by the President that coordinates research and development policies and activities across Federal agencies. The PCAST would ensure that the private sector's perspective is included in that policy-making process. The Office of Science and Technology Policy would provide funding and administrative support for the PCAST.

The proposed order would also revoke Executive Order 12882, Executive Order 12907, and section 1(h) of Executive Order 13138, which respectively: (a) created the Clinton Administration's PCAST; (b) increased the membership of the then PCAST from 16 to 19 members; and (c) extended the PCAST to September 30, 2001.

None of the affected agencies objects to the proposed executive order.

**RECOMMENDATION:** I recommend that you sign the proposed executive order.

Enclosures



U.S. Department of Justice

Office of Legal Counsel

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

August 7, 2001

MEMORANDUM

Re: Proposed Executive Order Entitled  
"President's Council of Advisors on  
Science and Technology"

The attached proposed Executive Order was prepared by the White House National Economic Council. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order would establish the President's Council of Advisors on Science and Technology (PCAST), composed of not more than 25 members, which would advise the President on matters involving science and technology policy. In performing those duties, PCAST would assist the National Science and Technology Council in securing private sector involvement in its activities.

The proposed Order is approved with respect to form and legality.

A handwritten signature in black ink, appearing to read "Sheldon T. Bradshaw".

Sheldon T. Bradshaw  
Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legal Counsel

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

August 7, 2001

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "President's Council of Advisors on Science and Technology." This proposed Executive Order was prepared by the White House National Economic Council. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review of its form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

A handwritten signature in black ink, appearing to read "Sheldon T. Bradshaw".

Sheldon T. Bradshaw  
Deputy Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

AUG 7 2001

GENERAL COUNSEL

Honorable John Ashcroft  
United States Attorney General  
Washington, DC 20530

Dear Mr. Attorney General:

Enclosed, in accordance with the provisions of Executive Order 11030, as amended, is a proposed executive order entitled "President's Council of Advisors on Science and Technology." The proposed order, which was prepared by the White House National Economic Council, would create an advisory committee on science and technology.

The proposed order would establish, pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App.), the "President's Council of Advisors on Science and Technology" ("PCAST"). The PCAST would be composed of not more than 25 members, one of whom would be the Assistant to the President for Science and Technology ("Assistant"), and 24 of whom would be appointed by the President. The PCAST members would have diverse perspectives and expertise in science, technology, and the impact of science and technology on the Nation. The Assistant and a non-Federal member designated by the President would co-chair the PCAST.

The PCAST would advise the President, through the Assistant, on matters involving science and technology policy. It would also assist the National Science and Technology Council ("NSTC") in securing private sector participation on the NSTC's activities. The NSTC is a cabinet-level council chaired by the President that coordinates research and development policies and activities across the Federal agencies. The PCAST would ensure that the private sector's perspective is included in that policy-making process. The Office of Science and Technology Policy would provide funding and administrative support for the PCAST.

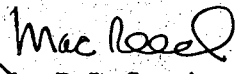
The proposed order would also revoke Executive Order 12882, Executive Order 12907, and section 1(h) of Executive Order 13138, which respectively: (a) created the Clinton Administration's PCAST; (b) increased the membership of the then PCAST from 16 to 19 members; and (c) extended the PCAST to September 30, 2001.

None of the affected agencies objects to the proposed executive order.

Your staff may direct any questions concerning the proposed executive order to Mr. Mac Reed of this office at 202-395-3563.

The proposed executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,

  
Jay P. Lefkowitz  
General Counsel

Enclosures

## Executive Order

-----

### President's Council of Advisors on Science and Technology

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to establish an advisory committee on science and technology, it is hereby ordered as follows:

Section 1. Establishment. There is established the President's Council of Advisors on Science and Technology Policy (PCAST). PCAST shall be composed of not more than 25 members, one of whom shall be the Assistant to the President for Science and Technology ("Assistant"), and 24 of whom shall be appointed by the President and have diverse perspectives and expertise in science, technology and the impact of science and technology on the Nation. The Assistant shall co-chair PCAST with a nonfederal member designated by the President.

Sec. 2. Functions. (a) The PCAST shall advise the President, through the Assistant, on matters involving science and technology policy.

(b) In performance of its advisory duties, PCAST shall assist the National Science and Technology Council (NSTC) in securing private sector involvement in its activities.

Sec. 3. Administration. (a) The heads of the executive departments and agencies shall, to the extent permitted by law, provide PCAST with information concerning scientific and technological matters when requested by the PCAST co-chairs.

(b) In consultation with the Assistant, PCAST is authorized to convene ad hoc working groups to provide preliminary non-binding information and advice directly to PCAST.

(c) Members of PCAST shall serve without compensation for their work on PCAST. However, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(d) Any expenses of PCAST shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(e) The Office of Science and Technology Policy shall provide such administrative

services as PCAST may require, with the approval of the Assistant.

Sec. 4. General. (a) Notwithstanding any other Executive order, the functions of the President with respect to PCAST under the Federal Advisory Committee Act, as amended, except that of reporting to Congress, shall be performed by the Office of Science and Technology Policy in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) PCAST shall terminate 2 years from the date of this order unless extended by the President prior to that date.

(c) Executive Order 12882 of November 23, 1993; Executive Order 12907 of April 14, 1994; and section 1(h) of Executive Order 13138 of September 30, 1999, are hereby revoked.

THE WHITE HOUSE,

RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109  
Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: July 30, 2001 (Date)  
Wallace P. Mullin (Name)  
CFA (Agency)  
(202) 395-5614 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages \_\_\_\_\_
- Other: \_\_\_\_\_
- FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

\*\*\*\*\*-EOP-CER-\*\*\*\*\*  
 -EOP-CER-  
 -EOP-CER-  
 STN NO. COMM. ABBR. NO. STATION NAME/TEL. NO. PAGES DURATION  
 001 OK S3109 001/001 00:00:14  
 FILE NO.=927  
 MODE = MEMORY TRANSMISSION START=JUL-30 12:23 END=JUL-30 12:23  
 -COMM. JOURNAL-\*\*\*\*\*  
 DATE: JUL-30-2001 TIME 12:23 \*\*\*\*\*

Total Pages: \_\_\_\_\_

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LRM ID: JAB80

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Friday, July 27, 2001

## LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM:  Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: James A. Brown  
E-Mail: James\_A\_Brown@omb.eop.gov  
PHONE: (202)395-3473 FAX: (202)395-3109

SUBJECT: REVISED JUSTICE Report on S633 Aviation Delay Prevention Act

DEADLINE: 3:00 p.m. Monday, July 30, 2001

=====

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

**COMMENTS:** This is a revised version of the draft that was previously circulated to you on May 23rd. Deleted language is indicated by "strike-throughs" and new language is indicated by underlining. These changes are primarily intended to conform the discussion of anti-trust issues in the letter to that in the Department of Justice's June 19th letter to the House Judiciary Committee on H.R. 1407 (a copy of which is included for reference.)

The Senate Commerce, Science and Transportation Committee is planning to mark up this bill on Thursday, August 2nd. If we do not hear from you by the deadline, we will assume that you have no objection to clearance of this revised letter.

DISTRIBUTION LIST**AGENCIES:**

117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687  
118-TREASURY - Thomas M. McGivern - (202) 622-2317  
033-Environmental Protection Agency - John Reeder - (202) 564-5200  
049-Federal Trade Commission - David Thomas - (202) 326-2195  
085-National Transportation Safety Board - Jamie Finch - (202) 314-6120  
076-National Economic Council - John Ackerly - (202) 456-2884  
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084  
061-JUSTICE - Sheryl Walter - (202) 514-2141  
019-Council on Environmental Quality - William L. Leary - (202) 456-6550

**EOP:**

Marisa K. Medrano  
Emily Willeford



Janet P. Walker  
John M. Ackerly  
Steven M. Mertens  
Kim C. Nakahara  
Timothy A. Rosado  
Edward H. Clarke  
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Robert J. O'Neill  
James C. Capretta  
Lloyd A. Blanchard  
Kenneth L. Schwartz  
Danielle M. Simonetta  
Steven D. Aitken  
David S. Addington  
Eric C. Pelletier  
William B. Boning  
Eric W. Hunn  
NEC LRM

LRM ID: JAB80 SUBJECT: REVISED JUSTICE Report on S633 Aviation Delay Prevention Act

=====
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: July 30, 2001 (Date)
Wallace P. Mullin (Name)
CEA (Agency)
(202) 395-5614 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- X Concur
No Objection
No Comment
See proposed edits on pages
Other:
FAX RETURN of pages, attached to this response sheet

# Withdrawal Marker

## The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Faxed Legislative Referral Memorandum - To: CEA - From: James A. Brown	6	07/27/2001	P5;

**This marker identifies the original location of the withdrawn item listed above.  
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**COLLECTION:**

Council of Economic Advisers

**SERIES:**

Hubbard, R. Glenn - Subject Files

**FOLDER TITLE:**

Office of Management and Budget [4]

**FRC ID:**

5648

**OA Num.:**

1551

**NARA Num.:**

1403

**FOIA IDs and Segments:**

2014-0342-F

**RESTRICTION CODES****Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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**Freedom of Information Act - [5 U.S.C. 552(b)]**

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**Records Not Subject to FOIA**

**Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.**



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 19, 2001

The Honorable F. James Sensenbrenner  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This letter provides the views of the Department of Justice on H.R. 1407 as reported by the Committee on Transportation and Infrastructure.

This legislation would grant antitrust immunity to competing airlines to permit them to coordinate scheduled flight arrivals and departures. While the Department understands the concerns over airport congestion and flight delays, we have concerns about this legislation in its current form.

In the face of strong public concern about competitive problems in the airline industry, this legislation is likely to exacerbate those problems, resulting in diminished service and higher prices for the traveling public. Indeed, the proposed exemption would cover conduct that is considered so harmful to competition as to likely be deemed per se unlawful under the antitrust laws.

Scheduling is a critical element of competition among air carriers. Carriers compete to offer flights at convenient times, especially for business passengers who pay significantly higher fares. For one-day trips, business passengers prefer early-morning outbound flights and end-of-day return flights. They also prefer carriers with a substantial number of flight frequencies in the city-pair market, to give them flexibility to change flights on short notice when necessary. Both these factors can lead to airport congestion during peak travel times.

If legislation is enacted permitting carriers to coordinate reductions in output, they will predictably endeavor to do so in the manner most profitable to themselves. It should be expected that each carrier will hold out for agreements that maximize its ability to obtain, exert, or protect its market power in its "home" or "hub" airports -- and they would have little incentive to do otherwise. By their nature, output-limiting agreements among competitors result in inflated prices. In the current

hub-and-spoke system, where most hub airports are dominated by a few carriers at most and a particular city-pair market is often more important to one carrier than to another, carriers will have a strong incentive to make anticompetitive "trades" where each agrees to reduce service in markets important to the others. And they can accomplish this without overtly doing so.

Experience shows that this concern is well-founded. Almost ten years ago, the Department sued the major airlines for using their electronic tariff publishing system to negotiate similar "trades" on fares. That is, one carrier proposed fare increases in markets important to another carrier, in exchange for the other carrier making fare increases in markets important to the first carrier. Having condemned such coordinated fare increases, it would be ironic to permit coordinated output reductions, which can be just as harmful to consumers.

Further, once the exemption is created it will be difficult to avoid "spill-over" cartel effects. And if carriers do begin to collaborate on other factors on which they should be competing, the antitrust immunity will make it more difficult for the Department to prosecute such conduct. Thus, the proposed exemption could effectively immunize a broad range of harmful anticompetitive conduct even beyond the legislation's intended focus.

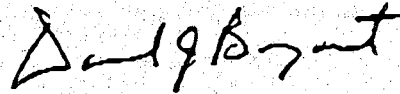
Although the bill's authors have included provisions attempting to protect the public against anticompetitive abuse, we believe these provisions will prove an inadequate substitute for the antitrust laws. Merely prohibiting discussions of fares or specific city pairs cannot begin to capture all the complex ways carriers can potentially interact to achieve anticompetitive ends behind the shield of an antitrust exemption. And subjecting these agreements to approval by Secretary of Transportation would simply turn us back in the dangerous direction of fare and route regulation reminiscent of the regime Congress wisely rejected two decades ago -- due to its inherent difficulty, uncertainty, and costs to the economy -- in favor of relying on competition.

In short, this legislation, as current drafted, could result in anticompetitive behavior. We believe that there may be available to Congress remedies that do not conflict with the enforcement of antitrust laws.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us

that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



Daniel J. Bryant  
Assistant Attorney General

cc: The Honorable John Conyers, Jr.  
The Honorable Don Young  
The Honorable James L. Oberstar

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## The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Faxed copy and original Memorandum - To: Mac Reed - From: R. Glenn Hubbard	2	07/25/2001	P5;

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Council of Economic Advisers

#### SERIES:

Hubbard, R. Glenn - Subject Files

#### FOLDER TITLE:

Office of Management and Budget [4]

#### FRC ID:

5648

#### OA Num.:

1551

#### NARA Num.:

1403

#### FOIA IDs and Segments:

2014-0342-F

#### RESTRICTION CODES

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

# Withdrawal Marker

## The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Memorandum - To: Agency Heads - From: Jay P. Lefkowitz	1	07/19/2001	P5;

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Assistant to the President and  
Cabinet Secretary

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Draft	Draft Executive Order	11	07/19/2001	P5;

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**COLLECTION:**

Council of Economic Advisers

**SERIES:**

Hubbard, R. Glenn - Subject Files

**FOLDER TITLE:**

Office of Management and Budget [4]

**FRC ID:**

5648

**FOIA IDs and Segments:**

2014-0342-F

**OA Num.:**

1551

**NARA Num.:**

1403

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## The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Memorandum with attachments - To: Agency Heads - From: Jay P. Lefkowitz	13	07/20/2001	P5;

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**SERIES:**

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**FOLDER TITLE:**

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2014-0342-F

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**Records Not Subject to FOIA**

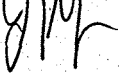
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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

July 20, 2001

MEMORANDUM FOR DESIGNATED AGENCY HEADS  
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Jay P. Lefkowitz   
General Counsel

SUBJECT: Proposed Executive Order Entitled "Energy Efficient Standby Power Devices"

Attached is a revised proposed executive order entitled "Energy Efficient Standby Power Devices," that was prepared by this office. It was revised based on comments received pursuant to the July 11, 2001, circulation of the draft order.

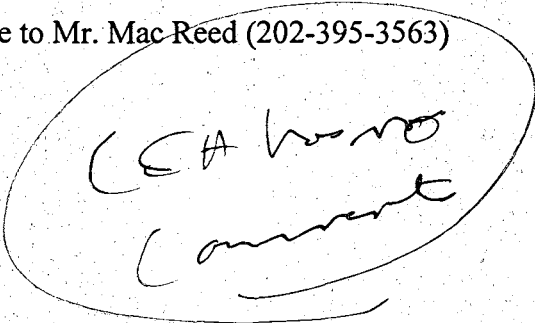
On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposed executive order. If you have any comments or objections, they should be received no later than 12:00 noon, Monday, July 23, 2001. Please be advised that agencies that do not respond by the deadline will be recorded as not objecting to the proposal.

Comments or inquiries may be submitted by telephone to Mr. Mac Reed (202-395-3563) of this office or fax to 202-395-7294.

Thank you.

Attachments - Distribution List  
Proposed Executive Order

cc: Mitch Daniels      Dick Emery      Chris Ullman  
Sean O'Keefe      Karen Keller  
Austin Smythe      Marcus Peacock  
Jim Capretta      Eric Pelletier  
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**Honorable Nick Calio**  
**Assistant to the President and**  
**Director of Legislative Affairs**

**Honorable Albert Hawkins**  
**Assistant to the President and**  
**Cabinet Secretary**

DRAFT  
7-20-2001  
4:00 P.M.

Executive Order

-----

ENERGY EFFICIENT STANDBY POWER DEVICES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Energy Conservation Policy Act (Public Law 95-619, 92 Stat. 3206, 42 U.S.C. 8252 et seq., as amended by the Energy Policy Act of 1992 (EPACT) (Public Law 102-486, 106 Stat. 2776), and section 301 of title 3, United States Code, and in order to further encourage energy conservation by the Federal Government, it is hereby ordered as follows:

Section 1. Energy Efficient Standby Power Devices. Each agency, when it purchases commercially available, off-the-shelf products that use external standby power devices, or that contain an internal standby power function, shall purchase products that use no more than one watt in their standby power consuming mode. If such products are not available, agencies shall purchase products with the lowest standby power wattage while in their standby power consuming mode. Agencies shall adhere to these requirements when life-cycle cost-effective and practicable, and where the relevant product's utility and performance are not compromised as a result. Within 90 days of the issuance of this Executive Order and on an annual basis thereafter, the Department of Energy, in consultation with the Department of Defense and GSA, shall compile a preliminary list of products to be subject to these requirements. The Department of Energy shall finalize the list and may remove products deemed inappropriate for listing.

Sec. 2. Independent Agencies. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 3. Definition. "Agency" means an executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered by the Department of Defense.

THE WHITE HOUSE,