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Folder Title: JGR/Pro Bono (7)
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101 Box 44 - JGR/Pro Bono (7) – Roberts, John G.: Files
SERIES I: Subject File

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name ROBERTS, JOHN: FILES

Withdrawer

MJD 8/6/2005

File Folder JGR/PRO BONO (7 OF 18)

FOIA

F05-139/01

Box Number 44

COOK

14MJD

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	JOHN ROBERTS TO FRED FIELDING RE REQUEST FOR DOJ INVESTIGATION	1	8/7/1984	B6	746
2	MEMO	FRED FIELDING TO CAROL DINKINS RE REQUEST FOR INVESTIGATION	1	8/7/1984	B6	747

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]

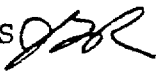
E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE
WASHINGTON

August 1, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 
SUBJECT: Reinstatement of Richard Nixon
to Public Life

The President has received identical letters from four individuals on the stationery of the "Small Committee for Richard M. Nixon," operating out of Los Angeles. The letters praise the contributions of the former President, contend that he has been unfairly slighted, and appeal to President Reagan "to officially reinstate the Honorable President Richard M. Nixon to public life and grant him the respectable status that is due him as one of the most illustrious presidents of the GREAT UNITED STATES OF AMERICA."

At your direction Mrs. Holland checked with the former President's staff and was advised that they had never heard of the "Small Committee." So far as I am aware Mr. Nixon suffers under no Federal disabilities removable by the President; I cannot imagine how President Reagan could accede to the Small Committee's request "to officially reinstate" Mr. Nixon "to public life." The best course would seem to be a bland response to the four individuals, thanking them for their views but noting that there is nothing for President Reagan to do to officially reinstate Mr. Nixon to public life.

Attachment

THE WHITE HOUSE

WASHINGTON

August 1, 1984

Dear Ms. Sevilla:

Thank you for your letter to the President concerning former President Richard M. Nixon. In that letter you expressed your view that the accomplishments of former President Nixon have been unjustly ignored. You urged President Reagan "to officially reinstate" Mr. Nixon "to public life."

Please be advised that no action by the President is necessary to reinstate former President Nixon to public life; there is no "official" action that could be taken for this purpose. We do, however, appreciate having the benefit of your views on this subject.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Thelma Sevilla
657 S. Atlantic Boulevard
Suite No. 252
Los Angeles, CA 90022

FFF:JGR:aea 8/1/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

August 1, 1984

Dear Mr. Romero:

Thank you for your letter to the President concerning former President Richard M. Nixon. In that letter you expressed your view that the accomplishments of former President Nixon have been unjustly ignored. You urged President Reagan "to officially reinstate" Mr. Nixon "to public life."

Please be advised that no action by the President is necessary to reinstate former President Nixon to public life; there is no "official" action that could be taken for this purpose. We do, however, appreciate having the benefit of your views on this subject.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Manuel Romero
657 S. Atlantic Boulevard
Suite No. 252
Los Angeles, CA 90022

FFF:JGR:aea 8/1/84
bcc: FFFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

August 1, 1984

Dear Mr. DuQue:

Thank you for your letter to the President concerning former President Richard M. Nixon. In that letter you expressed your view that the accomplishments of former President Nixon have been unjustly ignored. You urged President Reagan "to officially reinstate" Mr. Nixon "to public life."

Please be advised that no action by the President is necessary to reinstate former President Nixon to public life; there is no "official" action that could be taken for this purpose. We do, however, appreciate having the benefit of your views on this subject.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Enrique DuQue, Jr.
657 S. Atlantic Boulevard
Suite No. 252
Los Angeles, CA 90022

FFF:JGR:aea 8/1/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE
WASHINGTON

August 1, 1984

Dear Ms. DuQue:

Thank you for your letter to the President concerning former President Richard M. Nixon. In that letter you expressed your view that the accomplishments of former President Nixon have been unjustly ignored. You urged President Reagan "to officially reinstate" Mr. Nixon "to public life."

Please be advised that no action by the President is necessary to reinstate former President Nixon to public life; there is no "official" action that could be taken for this purpose. We do, however, appreciate having the benefit of your views on this subject.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Idolina P. DuQue
657 S. Atlantic Boulevard
Suite No. 252
Los Angeles, CA 90022

FFF:JGR:aea 8/1/84
bcc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1

Name of Correspondent:

Idolina P. DuQue

☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

Reinstatement of Richard Nixon
to private life

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CU Holland		ORIGINATOR	840531			1 1
CUAT18		Referral Note:	84106101		S	84106114
		Referral Note:				
		Referral Note:				
		Referral Note:				
		Referral Note:				

ACTION CODES:

A - Appropriate Action

C - Comment/Recommendation

D - Draft Response

F - Furnish Fact Sheet

to be used as Enclosure

I - Info Copy Only/No Action Necessary

R - Direct Reply w/Copy

S - For Signature

X - Interim Reply

DISPOSITION CODES:

A - Answered

B - Non-Special Referral

C - Completed

S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer

Code = "A"

Completion Date = Date of Outgoing

Comments:

See ID 230428 cu

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

Small Committee For Richard M. Nixon

657 S. ATLANTIC BLVD., SUITE No. 252 - LOS ANGELES, CA 90022

230437 cr

The President
The Whitehouse
Washington, D.C. 20500

May 22, 1984

Sir,

We feel very strongly that former President Richard M. Nixon has made innumerable contributions throughout his untired career in public office as Senator, Vice President and President of the United States and continues to contribute in private life to the very highly regarded principles on which this country was founded. We also feel that many of his accomplishments have been omitted, ignored or diminished in several chapters of our contemporary history.

This committee was founded to reinstate former president Richard M. Nixon to public life, to universally acknowledge all his accomplishments throughout his career as Senator, Vice President and President of the United States and to take advantage and make use of his vast expertise, prolificacy, statemanship and worldwide rapport for the welfare of our society and the world.

Therefore, we appeal to you, Mr. President, to officially reinstate the Honorable President Richard M. Nixon to public life and grant him the respectable status that is due him as one of the most illustrious presidents of these GREAT UNITED STATES OF AMERICA.

I have the highest honor to remain,

Most respectfully yours,


Idolina P. DuQue

FC 002-32

- ☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING

Enrique Duque, Jr

User Codes: (A) _____ (B) _____ (C) _____

Reinstatement of Richard Nixon

DISPOSITION

Type of Response _____ Code _____ Completion Date YY/MM/DD _____

CW Holland

ORIGINATOR

DD FORM 1061-06106

CAPT 18

Referral Note:

7 ~~SECRET~~ 10/10/06

584,06,16

Referral Note:**Referral Note:****Referral Note:****Referral Note:**

DISPOSITION CODES:

- I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

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B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE: -

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Code = "A"
Completion Date = Date of Outgoing

Comments:

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Small Committee For Richard M. Nixon

657 S. ATLANTIC BLVD., SUITE No. 252 - LOS ANGELES, CA 90022

230513 *cu*

The President
The Whitehouse
Washington, D.C. 20500

May 22, 1984

Sir,

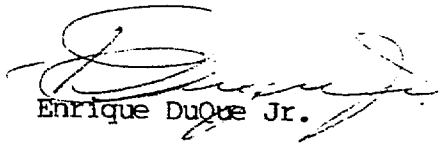
We feel very strongly that former President Richard M. Nixon has made innumerable contributions throughout his untired career in public office as Senator, Vice President and President of the United States and continues to contribute in private life to the very highly regarded principles on which this country was founded. We also feel that many of his accomplishments have been omitted, ignored or diminished in several chapters of our contemporary history.

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Therefore, we appeal to you, Mr. President, to officially reinstate the Honorable President Richard M. Nixon to public life and grant him the respectable status that is due him as one of the most illustrious presidents of these GREAT UNITED STATES OF AMERICA.

I have the highest honor to remain,

Most respectfully yours,


Enrique DuQue Jr.

JV

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

FG002-

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1 1Name of Correspondent: Manuel Romero☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject: Reinstatement of Richard Nixon

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W/Holland</u>		ORIGINATOR	<u>08/106/04</u>			<u>1 1 1</u>
<u>WATI 8</u>		Referral Note: <u>D</u>	<u>08/106/05</u>			<u>3 8/106/15</u>
		Referral Note:				<u>1 1 1</u>
		Referral Note:				<u>1 1 1</u>
		Referral Note:				<u>1 1 1</u>
		Referral Note:				<u>1 1 1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered C - Completed
B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: See ID 230437 cu

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

3
7.7.84
Small Committee For Richard M. Nixon

657 S. ATLANTIC BLVD., SUITE No. 252 - LOS ANGELES, CA 90022

230428 cu

The President
The Whitehouse
Washington, D.C. 20500

May 22, 1984

Sir,

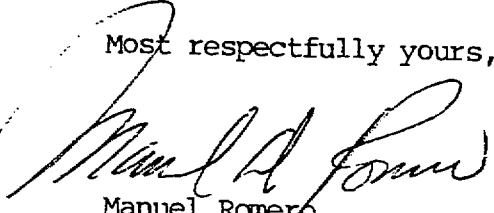
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Therefore, we appeal to you, Mr. President, to officially reinstate the Honorable President Richard M. Nixon to public life and grant him the respectable status that is due him as one of the most illustrious presidents of these GREAT UNITED STATES OF AMERICA.

I have the highest honor to remain,

Most respectfully yours,


Manuel Romero

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

ID# 217140

*DDH call Nick Brown on his
replacement) + find out
about the 88 -
dept require
All below*

INCOMING

DATE RECEIVED: JUNE 11, 1984

NAME OF CORRESPONDENT: MISS THELMA SEVILLA

SUBJECT REINSTATEMENT OF RICHARD NIXON TO PUBLIC LIFE

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED	DISPOSITION D YY/MM/DD
FRED FIELDING	ORG	84/06/11			
W Holland REFERRAL NOTE:	A	84/10/6/12			84/10/6/17
WAT 18 REFERRAL NOTE:	D	84/10/6/12			84/10/6/12
REFERRAL NOTE:	DDH	1/1			1/1
REFERRAL NOTE:		1/1			1/1
REFERRAL NOTE:		1/1			1/1

COMMENTS:

John - I checked and they have not heard of this group.

ADDITIONAL CORRESPONDENTS:

MEDIA:L INDIVIDUAL CODES:

MI MAIL

USER CODES: (A)

(B)

(C)

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

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

37

211174

Small Committee For Richard M. Nixon

657 S. ATLANTIC BLVD., SUITE No. 252 - LOS ANGELES, CA 90022

Fred Fielding

The President
The Whitehouse
Washington, D.C. 20500

May 22, 1984

Sir,

We feel very strongly that former President Richard M. Nixon has made innumerable contributions throughout his untired career in public office as Senator, Vice President and President of the United States and continues to contribute in private life to the very highly regarded principles on which this country was founded. We also feel that many of his accomplishments have been omitted, ignored or diminished in several chapters of our contemporary history.

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Therefore, we appeal to you, Mr. President, to officially reinstate the Honorable President Richard M. Nixon to public life and grant him the respectable status that is due him as one of the most illustrious presidents of these GREAT UNITED STATES OF AMERICA.

I have the highest honor to remain,

Most respectfully yours,

Thelma Sevilla

Thelma Sevilla

THE WHITE HOUSE
WASHINGTON

August 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for Investigation Concerning
a Military Officer and His Failure to
Permit Bar Tips

Joseph H. Driscoll, a bartender at the Park Plaza Hotel in New Haven, has written you to complain that the organizers of a Navy League dinner dance held at the hotel insisted that there be no acceptance of tips by the bartenders. Driscoll identifies a naval officer named Meyer as the source of the no-tip rule, and requests "an investigation into this outrageous insult to four civilian taxpayers [i.e., Driscoll and the three other bartenders]."

So far as I can tell, Officer Meyer did nothing wrong. Anyone organizing an event at a place of public accommodation can bargain for whatever rules on tipping and the like he would prefer, and I do not think the navy should be any different in this respect than anyone else. It hardly strikes me as unreasonable for Meyer to insist that there be no tipping, and if the bartenders do not like it they can take it up with their management, which agreed to Meyer's terms. The matter seems sufficiently clear to me that I do not recommend a referral to the Navy.

Attachment

THE WHITE HOUSE

WASHINGTON

August 6, 1984

Dear Mr. Driscoll:

Thank you for your recent letter, objecting to a "no tipping" rule that was applied to a Navy League dinner dance. You served as a bartender at the affair.

In my view the organizers of the Navy League event should be free to design the evening as they see fit, just as any individual or organization planning a similar affair may do. If the organizers insist on a "no tipping" rule, that is their prerogative. It appears that any complaint you might have is with the management for agreeing to terms you do not like, rather than with the Navy League organizers for bargaining for conditions that they deem appropriate.

In sum, I see nothing objectionable in the conduct of the organizers of this affair, as you have described it. We do, however, appreciate your taking the time to share your views with us.

Sincerely,

Orig. signed by FFF (a)

Fred F. Fielding
Counsel to the President

Mr. Joseph H. Driscoll
6 Riverside Drive
Branford, CT 06405

FFF:JGR:aea 8/6/84
bcc: FFFielding/JGRoberts/Subj/Chron

ID #

241945

CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

FB 015
JR - accumulates/draft

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMING

Date Correspondence
Received (YY/MM/DD) 1 1

Name of Correspondent:

Joseph H. Driscoll

☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

Requests investigation concerning
a military officer and his failure to receive
bar tips

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL		ORIGINATOR	84 07 16			1 1
CUAT 18		Referral Note:	D 84 07 17			S 84 10 120
		Referral Note:				
		Referral Note:				
		Referral Note:				
		Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

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S - Suspended

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Code = "A"
Completion Date = Date of Outgoing

Comments:

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6 Riverside Drive
Branford, CT 06405
June 9, 1984

July 11, 1984

Legal Counsel Fred Fielding
The White Horse
1600 Pennsylvania Avenue N.W.
Washington D.C. 205000

241945

On the evening of May 12, 1984 the Navy League of South Central Connecticut had a reception, dinner, speaking program, and dance at the Park Plaza Hotel in New Haven. A Navy Officer with the last name of Meyer was in charge of the affair. Officer Meyer is personally against the practice of gratuities, and on his instructions to the hotel management, the bartenders were told that to accept a tip would result in the loss of our jobs.

I was one of four bartenders at this function. The bars were pay as you go cash bars. I resent and very strongly object to Officer Meyer's instructions and to the hotel management for going along with him.

I am a tax paying civilian. That outranks any military officer in the United States of America!

In a depressed economy every penny counts; and we depend on tips to earn our living. The U.S. Navy represented by Officer Meyer has no right to stick its hands into my pockets and deprive me of my hard-earned money and to have me and my co-workers threatened with the loss of our jobs!

I would like an investigation into this outrageous insult to four civilian taxpayers.

I would like to hear from you on this matter.

Sincerely,

Joseph H. Driscoll
Joseph H. Driscoll

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

ROBERTS, JOHN: FILES

Withdrawer

MJD 8/6/2005

File Folder

JGR/PRO BONO (7 OF 18)

FOIA

F05-139/01

COOK

Box Number

44

14MJD

DOC Document Type

No of Doc Date Restric-
pages tions

NO Document Description

1 MEMO

1 8/7/1984 B6

746

JOHN ROBERTS TO FRED FIELDING RE REQUEST
FOR DOJ INVESTIGATION

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]
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- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

ROBERTS; JOHN: FILES

Withdrawer

MJD 8/6/2005

File Folder

JGR/PRO BONO (7 OF 18)

FOIA

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Box Number

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DOC Document Type

No of Doc Date Restric-
pages tions

NO Document Description

2 MEMO

1 8/7/1984 B6

747

FRED FIELDING TO CAROL DINKINS RE
REQUEST FOR INVESTIGATION

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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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- ☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
 Date Correspondence
 Received (YY/MM/DD) 1 1

862

Name of Correspondent: Frank Farkas

☐ MI Mail Report User Codes: (A) (B) (C)

Subject: Request for Justice Department investigation

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
QUHOU	DDI	84 10 03	ORIGINATOR		1 1
QUAT 18	D	84 10 03	Referral Note:		84 10 03
	DDI	1 1	Referral Note:		1 1
		1 1	Referral Note:		1 1
		1 1	Referral Note:		1 1
		1 1	Referral Note:		1 1

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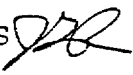
Comments: See ID 18916

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THE WHITE HOUSE
WASHINGTON

August 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for Help for Congressman Hansen

Mrs. Jim Richmond of Independence, Missouri has written the President, urging him to support Congressman George Hansen during this, his time of need. I recommend a brief reply noting that Hansen has been convicted, that his appeal is pending, and that it would accordingly be inappropriate for us to comment in any way on the case. A draft is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

August 9, 1984

Dear Mrs. Richmond:

Thank you for your letter of July 18, 1984 to the President, concerning Congressman George V. Hansen of Idaho. Congressman Hansen was convicted by a jury on April 2, 1984 of four counts of filing false statements with Congress. His case is presently on appeal before the United States Court of Appeals for the District of Columbia Circuit. As I am certain you will understand, it would accordingly be inappropriate for us to comment on the case in any way.

Thank you, however, for writing and sharing your views with us.

Sincerely,

Orig. Signed by FFF (a)

Fred F. Fielding
Counsel to the President

Mrs. Jim Richmond
8818 Smart
Independence, MO 64053

FFF:JGR:aea 8/9/84
bcc: FFFielding/JGRoberts/Subj/Chron

ID #

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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

FG 032

JBR

- ☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
 Date Correspondence
 Received (YY/MM/DD) 1/1

Name of Correspondent: MRS. Jim Richmond

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Requests help for Congressman Hansen

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>WHITTON</u>	ORIGINATOR	<u>84 08 03</u>			<u>1 1</u>
<u>QUAT 18</u>	Referral Note: <u>D</u>	<u>84 08 06</u>			<u>5 84 08 17</u>
	Referral Note: <u>DDJ</u>				
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ACTION CODES:

- A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet
 to be used as Enclosure

- I - Info Copy Only/No Action Necessary
 R - Direct Reply, w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:

- A - Answered C - Completed
 B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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herman miller

August 29, 1984

Mr. John G. Roberts, Jr.
Associate Counsel to the President
Room 106
Old Executive Office Building
1600 Pennsylvania Avenue
Washington, D.C. 20226

Dear John

Thank you for looking into this matter for me. Our issue seems to be one that is difficult to pinpoint and often confusing to express non the less, monumental in impact on the GSA's procurement practices and effected dollars.

The issue is: GSA's proposed single award of "unique" government specified furniture. (which GSA is calling "modular" furniture)

Problems: a) There is currently available, on multiple award contracts, product that meets the functional requirements of the "new" government furniture.

For GSA to move a product from multiple award status (many vendors holding contracts to supply a generic product for example printer stands) to single award status (one supplier to the government for a particular product) it must meet the following requirements:

1. Stable Technology:

The proposed furniture is for computer and office automation products. Computer technology is tremendously dynamic and the support furniture is going through the same dynamics. Therefore this criteria is not satisfied.

2. Adequate Supplier Competition:

The furniture manufacturers involved do not want to supply government designed furniture but supply our commercially

page 2

available products that satisfy the functional requirements. Although, two (of some 65 companies) are interested. One (Jebco), is a small shop that will make anything from a metal lamp to mail boxes, and does. Two, *Hon Company, this firm assisted GSA in developing the specifications for the "new" furniture. *If this interests you, the connection is very interesting and may bear some legal review on its own. The specifications prevent adequate supplier competition.

3. A Common Standard or Specification

As mention above, the specifications were written so that no manufacturer currently produces furniture to meet the specifications. However, the two companies also previously mentioned (Hon and Jebco) are expressing a willingness to manufacture to the GSA specifications. There are approximately 60 to 75 other manufacturers involved in this procurement. This strongly moves toward a sole source.

4. Volume Sufficient to Attract Full and Open Competition

GSA estimates to annual collective volume of this furniture to exceed \$100,000,000.00 I agree that the potential for the government to purchase \$100,000,000.00 worth of office automation type furniture is accurate.

John, what we are seeking is executive level scrutiny as to GSA's actions in regards to developing unique and proprietary furniture specifications and the proposed procurement method.

A congressional Government Activities and Transportation Subcommittee, held a hearing on a portion of this matter August 9, 1984, which was helpful in drawing attention but no corrective action. GSA is continuing on their merry way and the furniture industry, especially Herman Miller seeks relief expeditiously.

Any information as to whether Senator Helms approached the White House on this issue and the response would be most appreciated. Secondly, what avenues would be available for

page 3

Herman Miller to present the situation we face and the relief we seek to the executive branch?

John, I certainly appreciate your time and attention. I will speak with you in a few days.

Respectfully



Jan Cavanaugh
National Account Manager/
Federal Government
lp

August 6, 1984

SUBMITTED "OFF THE RECORD"
BY HERMAN MILLER
IN PREPARATION OF HEARING.

PROPOSED GSA "MODULAR FURNITURE" CID AND SINGLE AWARD

Background, Issue, and Proposed Action

GSA has no "stock" furniture to offer agencies other than conventional furniture. Therefore if an agency needs/wants either systems furniture or ADP furniture they use the multiple award schedules.

The dollar volume of these two schedules has increased dramatically over the last 3 years. The Systems Furniture Schedule is very tightly controlled by a GSA approval process (E-76) that cost justifies systems to conventional furniture. The ADP Schedule may be accessed openly without any type of approval process by all agencies.

GSA believes that high dollar volume in a multiple award category indicates a single award would be more cost effective for the government. Therefore, they have proceeded down this path with a new "stock" modular furniture program.

The majority of the furniture industry is outraged, but not for the initially apparent reasons.

In moving towards single award for, GSA's term "Modular Furniture", a combination of systems and ADP furniture, GSA has developed CID's (Commercial Item Description) for this modular furniture. There is no product on the market today that can meet the CID's for modular furniture. The CID's were developed by the furniture center's "engineers" and a limited number of manufacturers. Specifically, HON, which as it turns out is the leading proponent of the CID/Single Award. Two interesting points to note about this manufacturer: (1) They currently hold single award contracts with GSA to supply file cabinets and other conventional office furniture, the ones losing volume to ADP multiple award schedule. (2) Although they would manufacture the modular furniture in their Iowa facilities, HON owns many other companies, some of which are located in North Carolina. Senator Jesse Helms was active in coordinating a product introduction showing by HON in a local hotel facility more than two years ago, when the CID was in its embryonic state.

As it now stands, the CID as it relates to "modular furniture" is non-competitive. The government is not buying off the shelf items, but instead requesting unique products to the government's specifications which automatically raises the cost. Unique specifications to the government are a deterrent to many companies, therefore equalling less competition. Prices offered will cover the manufacturers R&D, tooling and "safety valve dollars" associated with producing a new product.

GSA's proposed method of buying "modular furniture" which is 6 zones of single awards in conjunction with unique government specifications moves strongly toward sole source award in each zone. You may recall an incident a few years back with Art Metal, sole supplier to GSA with unique government specifications. It was not in the best interest of the government.

A suggestion of what should be done now:

1. Cancel the current CID's and have the GSA agency, Advisory Group review the apparent need for government stock "modular furniture" as proposed.

Create a co-operative effort panel consisting of major systems and ADP furniture manufacturers, FSS. engineers, independent R&D representatives and a GSA advisory counsel member to develop specifications acceptable to competitive procurement practices. Possibly have GSA hire an independent R&D firm to develop the specifications.

2. In the mean time, allow the ADP and systems furniture schedules operate as they currently are. NOTE: The systems schedule to begin November 1, 1984 is extremely competitive. After \$75,000, on each order, there will be competitive negotiations as compared to the \$500,000 previously. Why not give this new system a chance to work?

Last Comment:

--- The epitome of competition is expanding the number of people competing for government contracts, with the view that the greater number of people competing the better the deal for the government. "Better product as a lower price."

The proposed CID's is the antithesis of the definition of competition.

according to a committee staff source. That would delay or perhaps even prevent consideration of the bill by the House in time for passage by Sept. 30.

However, even if the House passes the measure, it is unlikely that the Senate will pass the bill. According to a Senate Banking Committee staff member, there is "no effort whatsoever" to sponsor similar legislation in the Senate. Nor is there any likelihood that the bill will be appended to another measure, the aide said, adding that Congress is "most reluctant" to revive an entity that it dismantled only five years ago.

At press time on Friday, a decision from the House Parliamentarian on whether to grant the referral was imminent.

Appropriations Markup Cancelled

Meanwhile, the Senate Appropriations Committee called off the markup of the fiscal 1985 defense spending measure that was to have been held last Tuesday.

The defense appropriations subcommittee had marked up a \$299 billion bill on Aug. 3 (42 FCR 166), but Armed Services Committee chairman John Tower (R-Tex) succeeded in persuading the Appropriations Committee that there was nothing to be gained by marking up the DOD funding measure before the deadlock on the authorization measure conference is broken. The main stumbling block on the authorization measure is funding for the MX missile—at this point it is questionable whether a majority of either the House or the Senate would vote for it.

A congressional staff source said the Administration is biding its time on the conference until it is sure it has the necessary votes to approve the MX. The source speculated that the Administration may wait until after the November elections to vote on the authorization measure in hopes that a lame duck Congress will be insulated from public pressure to delete the MX.

President Reagan has mounted a personal campaign to preserve funding for the MX. Last week he telephoned several Democratic and Republican senators in an effort to garner votes for the missile. Senate Minority Leader Robert Byrd (D-WVa) told reporters that he had been contacted by the President and had told him that he had not yet decided how he would vote on the missile.

House Speaker Thomas O'Neill (D-Mass) has repeatedly predicted that funding for the missile will ultimately be defeated.

Budget Resolution

Meanwhile, conferees on the FY 1985 budget resolution (HConRes 280) met briefly Aug. 9 but were again unable to make any progress toward resolving differences over the defense portion of the budget plan.

The chairmen of the House and Senate Budget Committees agreed at the end of the brief meeting that they would consult with leadership of their respective chambers to try to break the impasse.

Rep. James Jones (D-Okla), House Budget Committee chairman, said at the beginning of the Aug. 9 meeting, "Privately we all agree where it's (the defense budget limit) going to end up; publicly we're having a difficult time getting there."

However, Sen. Pete Domenici (R-NM), Senate Budget Committee chairman, said, "We can't have a

budget resolution unless the House is willing to accept a range for defense." He was referring to the offer Tower made to conferees for using a range for defense budget authority limits. The bottom of the range would be the limits in the budget resolution as passed by the House and the top would be the Senate numbers.

Domenici said that for fiscal 1985 defense outlays, the range was "only about \$6.5 billion out of a \$980 billion budget...so in outlays we're not that far apart." However, for budget authority, the proposed range was \$299 billion (the Senate number) to \$286 billion (the House number). The Senate figure amounts to a 7.5 percent real growth rate for defense; the House figure, about 4 percent. Several congressional staff sources have predicted that the conferees will compromise on 5 percent real growth for defense. The authorization and appropriations measures would have to conform to this ceiling.

Next year there will be "a major deficit reduction package," Domenici said. However, he added, "The only thing I can do today is urge you to accept a range for defense."

But Jones disagreed, saying, "I don't think it's going to get us anywhere" and explained that there will be a problem with a defense appropriation bill unless there is a budget resolution.

Sen. Lawton Chiles (D-Fla) said, "My concern is that we would set a precedent (with a range for defense)...that would haunt us every year." He contended that such a precedent would mean that Congress would just use ranges and that there would be no need for a budget resolution conference.

Rep. Geraldine Ferraro (D-NY), Democratic vice presidential candidate and a conferee on the budget resolution, said, "This sounds like the conversation we had a month and a half ago." She said she has found that "people out there are very, very concerned about deficits" and urged the conferees to work out a compromise. She also said that she opposed the defense budget range proposal.

HEARING SYNOPSIS

Contract Policy

BUSINESS SPOKESMEN DIVIDED OVER GSA PLAN TO CUT USE OF MULTIPLE AWARDS

The General Services Administration's plan to switch some of the products that it is now purchasing under the multiple award system over to single award contracts drew both criticism and praise at a July 9 House Government Operations subcommittee hearing.

Multiple award schedules have been criticized in over 20 General Accounting Office and GSA Inspector General reports since the early 1970's, according to Rep. Cardiss Collins (D-Ill), who chairs the Government Activities and Transportation Subcommittee.

GSA has "tried to improve the program in a number of ways consistent with both GAO and our inspector general's recommendations," Roger Daniero, deputy assistant administrator of GSA's Office of Federal Supply and Services testified.

Multiple vs. Single Awards

Multiple award contracts are used when it is not feasible to obtain competitive offers that can be eval-

uated against a common standard, Daniero told the panel. They are negotiated with a number of firms to supply a given item and account for most of the federal supply service business. In fiscal 1983, \$1.2 billion worth of business under the federal supply schedule was conducted through multiple award contracts, Daniero said. On the other hand, \$315 million worth of contracts were awarded under the competitive single award system, he noted.

The new "Competition in Contracting Act" (PL 98-369) formally recognizes the multiple award program as competitive as long as participation is open to all responsible sources and the contracts result in the lowest overall cost, Daniero observed.

Criticism of GSA's multiple award schedule by GAO centered on the large number of items on the list—up to four million according to one subcommittee estimate—the large number of suppliers of similar items, and insufficient competition in the negotiation process, Collins noted.

GSA, in determining whether to move an item from the multiple to the single award list, looks for stable technology, adequate supplier competition, a common standard or specification, and volume sufficient to attract full and open competition, Daniero reported. Items moved to the single award schedule in recent years included light bulbs, electric typewriters, and dictating equipment, he noted.

For fiscal years 1985 and 1986, GSA has already established a list of items to review with an eye toward possibly moving them to single award competition, Daniero revealed. A few of the many items on that list include photographic equipment, drafting and surveying equipment, power hand tools, and signal systems. The list will be published in the *Federal Register* and *Commerce Business Daily* for comment, Daniero noted. Comments will also be sought on procedures and criteria GSA is developing for reviews of other products, he added.

GSA's announcement earlier this year that it was considering conversion of office equipment and furniture used for electronic data processing (EDP) instruments sparked a major controversy, Collins noted. Following the announcement this spring, the subcommittee's parent committee, Government Operations, received over 200 letters in opposition to the move, according to a subcommittee staff member. That reaction weighed in the decision to hold the hearing, he said.

Daniero noted that much of the opposition came from the furniture industry which was concerned that it would be adversely affected by development of a single award schedule for new modular furniture. However, conventional office furniture would still be needed and that would remain on the multiple award schedule, he observed.

Impact on Small Business

"We do not believe that our conversions from multiple award to single award contracts should be characterized as eliminating small business participation," Daniero told the panel. Conversion to single award does not eliminate GSA requirements for small business set-asides, he observed.

Under multiple award contracts large businesses received 60 per cent of the awards, with 40 percent

going to small businesses, Daniero reported. For single award items, the ratio is about 70/30.

"Multiple award is not a panacea for small business," he testified.

Small Business Administration official Doris Freedman agreed. "We have found that small businesses do not share one view on this issue," said Freedman, director of procurement and innovation policy for SBA's Office of Advocacy.

However, the SBA official did register some criticisms of GSA's procedures. Agencies are required to published proposed changes in procurement policies in the *Federal Register* and allow a 60 day comment period as set forth in OFPP Policy Letter 83-2, Freedman observed.

"GSA has not used these guidelines in [its] consideration of conversion from multiple award to single award schedules," Freedman declared. GSA would have a better understanding of the concerns of small business if it had followed those guidelines, she said.

Multiple Award Schedules Defended

A panel of witnesses representing trade associations offered the view that GSA was being short-sighted in converting some procurement items from multiple award schedules to single award.

The agency may be able to point to initial savings on single award contracts, but it is ignoring hidden factors that drive up the actual costs, Paul Caggiano of the Coalition for Common Sense in Government Procurement told the subcommittee. Single awards may restrict competition, increase government's administrative costs due to the need to draft specifications and solicit bids, and even result in higher prices for equipment, he said.

As an example of the latter, Caggiano pointed to a single award contract for copiers under which agencies pay \$2745 per machine. Since the award was made, technological improvements and competition in the copier industry has driven the price down to \$2111 per machine, Caggiano testified.

Caggiano called on the government to refrain from further single award solicitations until specific criteria have been developed to determine whether a product is suitable for single award, such as the criteria that Daniero outlined earlier.

Echoing that testimony was Herbert Bass, speaking for the Coalition for Multiple Award Contracts. But Bass, a New Orleans business machines dealer, noted that not all contracts should be multiple award. Rather, he said, claims of savings under single awards should be scrutinized more closely.

As result of the decision to convert a typewriter contract to single award, 15,000 office machine dealers and all but one manufacturer, IBM, "have been denied the opportunity to sell single element electric and nonmemory electronic typewriters to federal agencies in the 48 contiguous states," Bass declared.

That fact has harmed competition, and savings are being achieved "on the backs of small business people," he added.

Single Award Backers Heard

The attempt to move some products from multiple to single award schedules is the first time he has seen GSA try to do something to help taxpayers, as opposed

to helping trade associations, in over 30 years of selling to the government, said Elliot Barrow, president of Jebco Furniture, a contract manufacturer of metal office furniture.

His firm would not be able to compete for furniture sales to government under a multiple award system because it lacks a sales, distribution, and service network, Barrow added.

An attorney for Jebco, Stanley Hackett, told the panel that some products may best be supplied through multiple award contracts. "However, where the government can define what it wants, how many, and over what period of time, it is clearly preferable to write a specification... and put the item out for bid to responsible and responsive, competing suppliers," Hackett added.

He views GSA's current effort to shift some items from multiple award to single award as recognition that competition has not been furthered by emphasis on multiple awards, Hackett testified.

The move in the direction of single award contracts was also praised by Ronald Jones of the HON Industries, second largest manufacturer of office furniture in the U.S.

Pricing is always competitive because of the bidding process, and quality of the product is inspected prior to award, Jones said.

Small businesses are protected by set-asides on some contracts, he noted. In addition, small firms may compete under single award systems because some items are bought on a less than nationwide basis, such as by "federal zone," Jones said.

The announced intention by GSA's Daniero to more openly publicize its activities in moving some items bought on the Federal Supply Schedule answered the concerns of some subcommittee members, according to a staffer. No further hearings are expected and legislation is not likely to emerge as result of the hearing, he added.

Conferences

'RULE OF TWO' IN A/E CONTRACTS, ROLE OF HEARING EXAMINER DEBATED AT ABA MEETING

CHICAGO — (by a BNA Staff Correspondent) — The effect of the "Rule of Two" on set-asides of architect-engineer contracts, and plans by the boards of contract appeals to increase their use of hearing examiners sparked discussion at the Council meeting held Aug. 4 by the ABA's Public Contract Law Section.

Meetings were held the following day by three Section committees: the Insurance and Indemnification Committee, the A/E and Professional Services Committee, and the General Counsels Committee. The General Counsels meeting was closed, although the sessions had been listed as part of the Public Contract Law Sections' agenda. Members of the Counsels Committee said they were setting next year's plans and dinner meetings with agency officials, and did not want the press to attend.

At its Aug. 4 meeting, the Section Council approved sending a letter to the DAR Council and the Civilian Agency Acquisition Council urging that the total set-aside of architect-engineer contracts under the "Rule of Two" be stopped.

The "Rule of Two"—which had been in the DAR, and has since been incorporated into the FAR—requires that all architect-engineer contracts be set aside for small business if the contracting officer determines that there is a reasonable expectation that at least two responsible small businesses will submit reasonably priced offers (41 FCR 1029).

The Associated General Contractors of America has consistently opposed application of this provision to A/E contracts (41 FCR 717).

According to the letter, a Senate report released in connection with passage of the FY 1983 Military Construction Authorization indicates Congress' awareness that there are only 30,000 A/E firms in the nation—and that some 29,800 are small businesses. Moreover, the report concluded that the "Rule of Two" as applied to A/E firms was biased against small firms because the pool of potential competitors includes virtually every A/E firm in the country. In addition, it said that the rule virtually precludes the 200 largest A/E firms from performing federal work.

The ABA letter adds that Congress, in passing the FY 1984 Defense Authorization, statutorily voided the "Rule of Two" with respect to A/E procurements. A similar provision is in the FY 1985 Defense Authorization bill (41 FCR 1029).

"The American Bar association recommends that the total set-aside now in effect in FAR §19.502-2, as applied to A/E firms, should be eliminated as illogical and counterproductive," the letter says.

"The American Bar Association further recommends that a substitute set-aside policy for A/E firms be developed... to provide a realistic increased opportunity for truly small firms to receive a fair proportion of federal design contracts without precluding any segment of A/E firms from all federal design work."

In seeking to block approval of the letter, OFPP Associate Administrator (and Council member) Patricia Szervo argued that problems relating to the set-aside of A/E contracts aren't caused by the "Rule of Two." Rather, the problems are based on the size standards promulgated by the Small Business Administration, she maintained.

No Agreement on Use of Hearing Examiners

The boards of contract appeals are going to have to use more hearing examiners in order to deal with their increased caseloads, Corps of Engineers Board Chairman Richard Solibakke told the Council. The examiners will not write the final decisions, however, he said.

One way to avoid using more examiners is to go to Congress and obtain more administrative judge positions, Solibakke noted. The ENG BCA is also thinking about limiting the amount of trial time per case as another way to cope with the increased caseload, he said.

Szervo urged the boards to seek more supergrade slots from the agencies rather than going to Congress.

"We ought to go to work on dramatizing the problem," Stanfield Johnson added. "We don't want a commissioner system at the boards."

The ASBCA has been asking for more support staff, but without success, Judge Ruth Burg commented. The administrative judges currently do much of the

§ 511.001 Definitions.

"Commercial item description" (CID) is a simplified product description that describes by design, function, and/or performance the characteristics of available, acceptable, commercial supplies.

§ 511.003 General.

(a) The specification manager with advice from the contracting officer, if necessary, shall determine if inclusion of a CID in a solicitation is the most appropriate way of describing the Government's needs.

(b) When the CID consists of only the minimum salient characteristics of the commercially available supplies (e.g., general requirements, test procedures), a commercial item certification shall be included in the solicitation. (See § 511.070-1.) Because the certification provision supplements and replaces the quality assurance provisions, the certification must be obtained to represent that the supplies being offered are of standard commercial quality.

(c) For CID's that incorporate specific salient characteristics including performance standards, packaging and packing requirements, quality assurance provisions (e.g., visual examination, sampling plans, test methods) the commercial item certification is not required. In this instance, the CID is the sole basis of determining whether the item meets the Government's needs.

§ 511.070 Solicitation provision and contract clause.

§ 511.070-1 Solicitation provision.

The contracting officer shall include the certification provision at § 552.211-70, Commercial Item Certification, in solicitations for supplies when a basic or broad description of a standard commercially available product is used to describe the requirement.

THE WHITE HOUSE

WASHINGTON

August 11, 1983

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

SUBJECT: Competition in Federal Procurement

Competition is fundamental to our free enterprise system. It is the single most important source of innovation, efficiency, and growth in our economy.

Yet, far too often the benefits of competition are excluded from the Federal procurement process -- a process which now results in expenditures of over \$160 billion annually. Numerous examples of waste and exorbitant costs due to the lack of competition have been detailed by the Congress and the press during recent months.

Although efforts have been initiated by this Administration through the Reform '88 Management Improvement Program to correct this longstanding problem, I am convinced that more needs to be done. Consequently, I have directed Don Sowle, the Administrator for Federal Procurement Policy in the Office of Management and Budget, to issue a policy directive on non-competitive procurement to all departments and agencies. That policy directive will establish government-wide restrictions on the use of noncompetitive procurement and will be reflected in the government's procurement regulations. While such congressionally mandated programs as contracting with minority firms and handicapped persons will not be affected, the unwarranted use of noncompetitive practices must and will be curtailed.

Pending the formal issuance of this new policy by the Administrator, I call upon each of you to assure that competition is the preferred method of procurement in your department or agency.

Ronald Reagan



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

OFFICE OF FEDERAL
PROCUREMENT POLICY

MAY 24 1976

MEMORANDUM FOR: SECRETARY OF DEFENSE
ADMINISTRATOR OF VETERANS AFFAIRS
ADMINISTRATOR OF GENERAL SERVICES

Subject: Procurement and Supply of Commercial Products

Over the years, the trend in development of Government procurement and supply processes has been toward more explicit preferences for the use of Government specifications to acquire commercial-type products even when commercial, off-the-shelf, products have been available to fulfill agency requirements. I am convinced of the need for a fundamental change in this direction. The Government must now emphasize the acquisition of commercial, off-the-shelf, products in order to achieve optimal effectiveness in supply support operations.

Federal Government expenditures for commercial and commercial-type products will command a sizeable portion of over \$66 billion estimated for Federal procurement in FY 1977. In addition to these expenditures, there are extensive costs associated with requirement and specification development, purchasing and contracting, warehouse operations, transportation, distribution, administrative handling and inventory investment. Because of the magnitude and dollar volume of the Government's requirements for commercial products, it is essential that the task of providing supply support reflects an approach that conforms to basic policy objectives of the Government.

Most commercial products have a low unit cost, but they number in the millions, are repetitively purchased, and their procurement and supply involve every agency of the Government as well as broad interface between the public and private sectors of the economy. The Commission on Government Procurement recognized the need for new direction in this area, devoting a major portion of its study efforts to the Government's acquisition of commercial products. A number of significant recommendations were included in the Commission's final report. These reflected the application of the Commission's conclusion that there was a "need for a shift in fundamental philosophy relative to commercial product procurement...." The attached

paper, which confirms the Commission's conclusion; discusses the background and current practices of the Government in its procurement and supply of commercial products, identifies the direction for a shift in philosophy, and points to the potential benefits available to the Government from playing a less structured role in the commercial marketplace.

The paper points to a need to distinguish between the acquisition of commercial, off-the-shelf products, and the acquisition of commercial-type products which, being tailored to meet Government specifications, are not available through commercial distribution channels. The importance attached to this need stems from a recognition that the acquisition of commercial-type products normally carries with it the burdensome obligations of Government storage, handling and distribution which duplicate available commercial warehousing and delivery systems. Not only are such duplications costly, but the competition with private industry is contrary to established policy that the Government should rely on the private enterprise system for the commercial/industrial type products and services it requires.

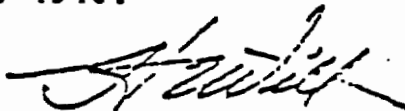
New direction is also needed in procurement to enable the Government to take fullest advantage of manufacturers' quality assurance, warranties and repair services, where these have established reliability in the commercial market, and to enable contracting officers to purchase commercial products competitively, with quantity discounts, relying upon commercial rather than Government specifications.

After thorough consideration of these matters, I have concluded that the procurement and supply processes of the executive branch must be thoroughly examined and appropriate revisions made with the objective of implementing the following policy:

The Government will purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

The application of this policy will require innovative management, calling for the development of administrative and, in some instances, legal mechanisms to ensure its timely and viable implementation. Essentially, however, all that stands between the policy, as a concept, and its realization is the necessary commitment on the part of professional logisticians to seek out and apply imaginative mechanisms which will permit the Federal Government to realize the benefits available from this shift in philosophy.

We fully recognize the size and complexity of this task, and that a uniform approach to implementation is essential to assure a high probability of success. Therefore, it is requested that you designate a representative to participate with an OFPP sponsored interagency steering group to develop implementation procedures which, ultimately, will be coordinated with all concerned agencies prior to finalization. Please furnish the name, title, organization and telephone number of your designee by June 7, 1976. I have appointed, as chairman of the interagency steering group, Mr. Daniel S. Wilson, Special Assistant to the Administrator (OFPP), telephone (202) 395-4946 or Code 103-4946.


Hugh E. Witt
Administrator

Attachment

New Direction for the Procurement and Supply of Commercial Products

Over the past two hundred years, the procurement and supply of goods and services to satisfy the day-to-day needs of the Federal Government have undergone many transitions. Each transition was motivated, undoubtedly, by the need to improve the effectiveness of existing supply capabilities and by the recognition that, to be effective, the procurement and supply system must continuously adapt to an ever-changing logistics environment. In retrospect, these transitions can be seen as a two hundred year, incremental process of progressive refinements and adjustments in the manner in which the Government procures and distributes the products it requires. Since each transition introduced new concepts and methods which called for the discarding of "proven" and familiar policies and practices, it is unlikely that any of these changes escaped criticism or the resistance of some who were convinced that the old ways were better.

Today, it is apparent that the nature of the logistics environment, again, has altered and that opportunities for significant advancement in supply management effectiveness are being offered. Specifically, the development of sophisticated data processing equipment and systems for requisitioning and inventory management, and the existence of an extensive and expanding network of commercial distribution systems are highly significant logistics factors. When considered in tandem they make possible the management of the Government's procurement and supply of commercially available products on a scale never before possible. These developments permit, for the first time in the modern era, the full and active utilization by the Federal Government of all aspects of the commercial marketplace. Equally important, they present the opportunity for scaling down the time and expense of developing Government specifications, for orderly reduction in the Government's burdensome investment in inventories, and for savings in Government warehouse operations. Auspiciously, these developments occur at a time when the Government has modified its management structure to permit the exploitation of such opportunities. The Office of Federal Procurement Policy was created in 1974 with the statutory authority and responsibility to bring about precisely such Government-wide improvements.

Over the years, the Federal Government has developed a huge and complex organization devoted to the acquisition and distribution of supplies and equipment needed to provide a

broad range of services. Many of these supplies and equipments are of the same nature as those used in the private sector; some are identical and some are slight but unique variations of the commercial product. The Federal Government invests great sums for such products, plus additional sums for their storage and distribution prior to use. Yet much of the effort and expense dedicated to this program is, at best, of questionable benefit in terms of results obtained and, at worst, a wasteful duplication of existing commercial distribution systems.

Government specifications are costly to develop and maintain. In many instances, such costs are justified in that specifications help to assure that the Government receives products which meet its requirements. In other instances, however, the Government's specifications merely add embellishments to commercial products for the purpose of establishing a competitive base. In such cases the Government is unable to acquire these unique items through commercial distribution channels and must establish and maintain its own costly supply network. Government specifications in these instances add to the complexity and, thus, the cost of the procurement process by requiring separate production runs for Government unique requirements. Too often, moreover, they discourage the submission of bids by established commercial suppliers, and foster the creation of suppliers whose products have not been tested in the marketplace and whose only customer is the Government.

Cost, however, is not the only consideration nor, indeed, the primary one. Fundamental to the Nation's economic and political philosophy and basic to the relationship between Government and private industry is the commitment by the Federal Government to rely for its needs upon the private sector. The value of the inventive and innovative spirit of the private enterprise system cannot be measured in a simple dollar for dollar cost comparison.

The report of the Commission on Government Procurement emphasized the need for a change in the fundamental philosophy relative to the procurement of commercial items. Momentum is already gathering toward a change in the way we procure commercial items. For example, the Defense Science Board recently completed a study which showed that the acquisition of off-the-shelf electronic test equipment would produce savings of \$80 million annually. Further opportunities for savings are obvious since commercial products acquisition

represents a sizeable portion of over \$66 billion estimated for Federal procurement during FY 77.

To provide new direction for the Government's management of its procurement and supply of commercial products and to exploit the opportunities presented by the current logistics environment, there is need to establish policy objectives that will enable the Government to purchase commercial, - off-the-shelf, products when such products will adequately serve the Government's requirement. It is also important that such products have an established commercial market acceptability. In addition, the Government should, in supplying commercial products to its users, utilize commercial distribution channels wherever possible.

These approaches will require major changes in current practices. Administrative, and, perhaps in some instances legal, mechanisms must be developed to ensure viability in implementation. Commercial warranty provisions must be more definitive; equitable formulas must be developed for determining the selection of qualified products; mechanisms must be refined for identifying and recouping volume discounts; and means must be found to interface Government requisitioning procedures with commercial delivery systems. These and related tasks will require the commitment of skilled procurement and supply management executives from the principal agencies, supported by the Government's best professional logisticians.