

December 9, 1976

TO: JIMMY CARTER

FROM: WALTER F. MONDALE

RE: THE ROLE OF THE VICE PRESIDENT IN THE CARTER ADMINISTRATION

I. Background

Defining an appropriate and meaningful role for the Vice President has been a problem throughout the history of this country. While custom and statute have changed the office gradually over 200 years, generally speaking, the Vice President has performed a role characterized by ambiguity, disappointment, and even antagonism. Arthur Schlesinger, Jr. concludes "history has shown the American Vice Presidency to be a job of spectacular and, I believe, incurable frustration."

Other commentators as well as former Vice Presidents have focused on particular problems of the office. Competition with the President, conflict with the White House staff, lack of meaningful assignments, lack of authority, and inadequate access to vital information are most frequently mentioned.

I have spoken at length with Vice President Rockefeller, former Vice President Humphrey, and their staffs to try to understand more fully the many dimensions of the position. Further, through other conversations and reading what literature is available, I have tried to supplement my understanding.

Finally, my staff prepared a Constitutional history of the office and a comparison of the duties and staffing of the Humphrey and Rockefeller Vice Presidencies.

It is my hope in this memorandum that I can outline a set of relationships, functions and assignments that will be workable and productive for the administration. I am committed to do everything possible to make this administration a success. I fully realize that my personal and political success is totally tied to yours and the achievements of your administration.

II. Our Basic Relationship -- General Adviser

I believe the most important contribution I can make is to serve as a general adviser to you. I would hope my experience in government and politics would assist me in giving you advice on the major questions facing you.

The position of being the only other public official elected nationwide, not affected by specific obligations or institutional interests of either the Congressional or Executive branch, and able to look at the government as a whole, does put me in a unique position to advise. Further, my political role around the country as well as my established relationships in Washington should allow me to keep in close touch with many different groups and viewpoints.

The biggest single problem of our recent administrations has been the failure of the President to be exposed to independent analysis not conditioned by what it is thought he wants to hear or

often what others want him to hear. I hope to offer impartial advice and help assure that you are not shielded from points of view that you should hear. I will not be the only source of such advice. Yet, I think my position enables me to help maintain the free flow of ideas and information which is indispensable to a healthy and productive administration.

In order to fulfill the role of a general advisor satisfactorily, I think the following are necessary:

1. Frequent and comprehensive intelligence briefings from the CIA and other intelligence agencies of similar depth to those you receive. Advance warning of major issues to be discussed at meetings of the NSC and other significant groups is necessary as well as the ability to request additional briefings and responses on areas of special concern.

Senator Humphrey emphasized the importance of this point to me repeatedly. He was not given adequate briefings and was, therefore, unable to participate effectively on the NSC or in this general arena of foreign and defense policy.

2. A special relationship with other members of the Executive branch. I would hope that I could expect the same or nearly the same level of responsiveness from key administration officials in seeking information that you

would receive. Providing sound advice to you requires from them complete candor and cooperation in providing information. I do not believe I could evaluate and/or assess key problems without this relationship. I think it would be important to make this point to the Cabinet and other key officials at the very beginning of the administration.

3. Participation in Meetings of Key Groups.

Participation in Cabinet meetings, discussions with the Congressional leadership, meetings of the National Security Council, Domestic Council and the economic policy group (whatever form it takes) would be extremely valuable in fulfilling the advisory role.

4. A seasoned, experienced staff representative on the NSC and Domestic Council who I can call on to meet my needs. I think it is terribly important that I have a staff capability on these two Councils whose priority is to assist me in performing my functions. Humphrey was not given staff support which combined with the lack of briefings made his role on the NSC almost insignificant.

5. Relationship with White House Staff. I think it is critical that my office be well informed on the activities of the White House. I believe it would be helpful if representatives of my office could participate in

appropriate White House staff meetings. I hope we can maintain the excellent relationship our two staffs developed during the campaign and have maintained during the transition. Also, my staff is available to you or the White House staff for any assignments or tasks for which they may be needed.

6. Access to you.* I suggest that we plan to meet once per week at a minimum of 30 minutes to an hour. Rockefeller currently has this arrangement with President Ford and recommends it highly. This would be a time for me to report on my activities, offer advice and get assignments from you. We, of course, could cancel the meeting if we did not need the time. In addition to our regular meeting, I would hope I could depend on having access whenever necessary. Of course, I would be available whenever you might want to meet.

III. General Functions

A. Trouble-Shooting. As problems arise, I would like to be available to respond to your direction and help solve them as quickly as possible. Within this general category, two areas emerge:

* Historically, there has been substantial variation in access and proximity. It was not until President Kennedy that the Vice President had an office in proximity to the White House (EOB). On one occasion (Agnew) the office of the Vice President was actually in the White House. I prefer to think of access in the terms expressed here and would prefer to maintain the space with adequate staff offices in the Executive Office Building.

1. Investigation. I believe I could perform a very valuable function in attempting to provide background and analysis for you in special areas of concern. This function could range from gathering information on an issue or area of government about which you are restless or uncomfortable to conducting a full-scale, formal investigation such as Rockefeller did in the case of the CIA. An example of one area well suited for this approach is that of task force on hard crime and official lawlessness suggested in the campaign.

2. Arbitration. The sometimes conflicting and sometimes parallel assignments of governmental functions to different departments and agencies produces inefficiency and interdepartmental disputes, as you well know. With your support, I think I could play an important role in resolving such problems. This would probably be done in an assignment-by-assignment basis.*

B. Foreign Representation. Nearly everyone, most notably the former Vice Presidents I have spoken with, agrees that the

* Humphrey felt he could be very effective in this area. He noted that the President did not have sufficient time to consider many of the problems that arose between departments and agencies.

Vice President can play a very significant role through foreign travel. The foreign travel I do can be used to express your interest in selected foreign policy areas, give us an additional presence abroad, and provide you with a first-hand assessment of foreign leaders and situations.

I would tentatively suggest (subject to conversations with the Secretary of State) that in the early weeks of the administration we consider the advantages of short trips to the industrialized nations (Canada, Western Europe and Japan). Such trips would enable me to reassure our allies, discuss the objectives of a possible economic summit, and assess the internal economic prospects of our leading economic partners. I am advised that travel in the early days can be very productive in part because it is too soon for the host countries to expect specific responses to their problems.

It would be made clear, both publicly and privately, that such a trip was an information gathering mission, not a negotiating mission. The itinerary would be worked out with your senior Cabinet officials and advisors. It would be conducted with minimum publicity from the standpoint of the United States but with appropriate attention to dramatizing the Vice President's visit as a gesture of your interest in the countries concerned.

IV. Specific Function

The Constitution mandates that I serve as President of the Senate. The duties are ceremonial with the exception of casting

tie-breaking votes. I assume this responsibility will take a minimum amount of time.

V. Possible Additional Functions

Based on my analysis of the history of the office, the following are functions which are the most promising or in this situation seem to merit serious exploration.

A. Congressional Relations. I think I can be helpful to you in your relations with the Congress in two important respects:

1. I think I can advise you on what to expect from the Congress on significant issues, how to interpret their actions, and what approaches will be most productive. Twelve years in the Senate gives me a substantial background for analysis and interpretation.

2. I can advise and assist your Congressional liaison office. This should be done on an informal basis so that my role is not thought of as a lobbyist. Yet, on major initiatives, I could conduct key conversations and become more operational.

B. Political Action. Every Vice President in recent history has played a significant political role for the President. I assume I would do the same. I can be helpful through keeping our administration on the offensive politically and representing us around the country, with the Party, and with special constituencies such as labor. I would assume this would be a continuing role, meshed

with the off-year election campaigns and the re-election campaign of 1980.

On an allied point, an immediate assessment of election laws, together with recommendations for Congressional action, is very much needed before the next election. Campaign finance, primary laws, voter registration, and other critical areas are much in need of review. I would be interested in conducting such a review and recommending a legislative package if you would find it valuable.

C. Liaison with Special Groups. The Vice President has served in the past as a special liaison to elected officials (particularly Mayors and Governors). Agnew established an office of intergovernmental relations for a time which was disbanded. Humphrey served as a point of contact and advocate for the elected officials.

The key danger in regard to this function is that the Vice President's office is devoted to doing agency work for local and state government which could be handled better through direct contact between the elected official and the agency concerned.

I suggest maintaining the Vice President's office as a key contact point for Mayors and Governors with adequate safeguards against the danger noted above. The proper execution of this possible function will require additional discussion.

D. Special Role with Domestic Council. Depending on the functions of the Domestic Council, a leadership role with the

Council might be considered. The Council is currently the only group concerned with a long-range policy planning function and with the integration of domestic policy recommendations. These functions would be consistent with the domestic overview required as an adviser to the President and with the possible role as an arbitrator in interdepartmental conflicts. Your determination of the functions of the Council will bear directly on what role would be appropriate for me to play.

E. Special Role with Economic Policy Board. The coordination of domestic and international economic policy will be extremely important. A special role with the Economic Policy Board could be considered.

VI. Additional Commitments

A. Minnesota. I would like very much to be able to continue to devote some time and attention to my special relationship to the people of Minnesota. Special projects, some liaison work, concern about appointments, and regular contacts in Minnesota and Washington would be included. That time would not be substantial, but this private commitment to be able to continue to serve the people of my state would be very meaningful to me.

B. A Role for Joan with the National Foundation on the Arts and Humanities. I would like to assist Joan in structuring a useful and rewarding role with the National Foundation as the primary vehicle for her continued involvement in the arts. She is

extremely effective in this area. In the early stages, this might involve my showing a special interest in this agency.

VIII. Conclusion

I am optimistic that we can develop a relationship and a set of functions which will allow me to contribute to the administration in a substantial way. That optimism has been maintained and nourished from our first conversation in Plains through the campaign and further reinforced in the past month of working together. I look forward to a productive working relationship and a close friendship throughout the administration and beyond.

The role outlined above would, in my judgment, clearly fulfill the most important constitutional obligation of the office -- that is, being prepared to take over the Presidency should that be required. The relationship and assignments suggested were not focused on that obligation, but I think they do meet the test.

OFFICE OF THE VICE PRESIDENT
WASHINGTON

Bill Smith

February 14, 1977

MEMORANDUM TO: MAXINE
FROM: EISELE *AE*
SUBJECT: WFM ROLE IN CONGRESSIONAL RELATIONS

I asked Bill Smith for some guidance on what to tell reporters who ask about WFM's role in helping smooth out some of the bumps in the relations between Congress and the White House.

Here's what he said:

Overall, portray Mondale as working closely with Frank Moore and the President on specific problems, i.e. Carter's effort to assure the confirmation of Paul Warneke of Arms Control and Disarmament Agency. But avoid going into detail of his lobbying effort on behalf of Warneke.

Also, could point out that WFM is meeting with various groups of members of Congress, the first of which was with House Ways and Means Committee chairman and subcommittee chairman at a breakfast at Veep's house on Feb. 9 along with Blumenthal, Schultz and Lance.

On Feb. 8, he also met with House Democratic Policy and Steering Committee on the Hill (with Moore) to give a report on his trip and to massage Congressional egos.

Also, he will be meeting with Class of '74 and with House Democratic freshmen in near future, and will be conducting informal meetings with other members of Congress on a continuing and fairly regular basis.

It is important to avoid giving any indication that we're i.e. WFM and staff, going around undercutting or upstaging or badmouthing Moore. "It would be a disaster" if such talk got out, Smith says.

Generally, I think we can say that the President recognizes that Mondale has a great deal of experience and knowledge about Congressional relations and that he is trying to utilize that experience and knowledge to the maximum degree in a way that complements Frank Moore's office.

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OFFICE OF THE VICE PRESIDENT
WASHINGTON

February 15, 1977

MEMORANDUM FOR THE VICE PRESIDENT

FROM: GAIL
RE: TALKING POINTS FOR N.Y. TIMES LUNCHEON

I. Role of the Vice President

A. General

--President Carter exceptionally self-assured

--No question that he makes the decisions in this administration

--But he has made it clear, not only to me, but to the Senior White House staff and members of the Cabinet that he would like to receive and would value my advice on major decisions as they come up

B. Problems of Past Vice Presidents

--lack of access to information

--lack of access to the President

--lack of cooperative and constructive relationship with Cabinet and White House Staff

C. Changes Under Carter

--President has successfully sought to assure that I would have access to virtually all of the information that would cross his desk, not only National Security briefings but memoranda as they come through on the various issues

--I meet with the President on a frequent basis, sitting in many meetings with him and taking part in discussions.

--We have a small and very lean White House staff. We see each other at lunch and communicate closely. There is an unprecedented openness, in part because everyone has so much to do, we have to work together.

D. Conclusion: Role of Vice President

--There will, of course, be things I have to do that are no different than the activities of past Vice Presidents.

.Speaking to various groups around the country

.Representing the President at ceremonial occasions when he is unable to attend.

--But President Carter has already given me greater opportunity for input as a general advisor than any Vice President has ever received.

--And from time to time I expect to be taking on special high level assignments, like the recent overseas trip, so like every member of this Administration, I will have more than enough to do.

II. Recent and Upcoming Administration Activities

1. The President has already sent up his economic package and I think there is no question of early and positive action by the Congress.

2. The reorganization proposal has been submitted and the outlook on that is very hopeful.

3. The budget will be prepared and sent up next week.

4. And starting in the next few weeks the remainder of the legislative proposals for action in this Congressional session will be coming out.

(I can't talk about specifics until the budget comes out)

5. In addition to the emergency energy actions already taken, by April 20th the President will have a major statement on energy policy.

6. By May 1 we expect to have welfare reform options developed by an inter-agency task force.

7. Mike Blumenthal has already begun work on the tax reform package which will be ready later in the year.

8. And we look ahead to a National Health Insurance proposal next year.

QUESTION ON GRIFFIN BELL SCHOOL DESEGREGATION COMMENT

Question: Mr. Vice President, as a strong civil rights advocate, do you agree with, and what is your reaction to the statement by the Attorney General that this Administration's activities on school desegregation and busing will not be too different from those of the last Administration?

Response: I do not know the full context of Mr. Bell's remarks. It is clear that the courts are moderating their position with respect to busing, which has an unavoidable impact on the legal actions that can be taken by the federal government. However, there is no question that this Administration will act vigorously to enforce the law. And unlike past Administrations, you will not see this Administration attempting to repeal the Constitution by federal statute.

MEMO TO: Dick Moe
FROM: Bill Smith
RE: The Vice President's Senate Office
DATE: November 12, 1976

The following information comes from Spofford Canfield, Administrative Assistant to Rockefeller in the Senate who has held that position for Agnew, Ford and Rockefeller.

I. Salaries and Staff

The Senate clerk-hire allowance is currently \$654,000. The maximum salary on this payroll is \$41,750. There is no limitation on the number of positions that can be filled at or below that limit at levels within the Senate salary schedule. (EOB funds provide for only one position at the Executive Two level -- \$44,600, the rest at or below GS-18 currently \$39,600. All these salaries will be subject to revision in January or February when Ford recommends increases under the pay adjustment act for all government employees above the GS-15 level.)

Eight of the current thirty-eight Vice Presidential staff on the Senate payroll work in the Senate. The rest at the EOB. These eight consume \$150,000 of the \$654,000 clerk hire allowance.

II. Housing

There is a five-room suite in the Dirksen Building, two very large, one medium and two very small. Except for one Rockefeller staff person working on a specific project, these rooms are now vacant. With Susan Herter's permission we could probably move in there very shortly. There are two rooms in the Capitol, a ceremonial room right off the Senate Floor which Rockefeller, himself, uses and S-212, about the size of WFM's current office now used by Canfield and two secretaries. S-212 is next to the Taj Mahal.

III. Legislative Liaison

This seems to be mostly a behind the scenes, eyes-and-ears operation, keeping track of legislation for the VP and his EOB staff, but also serving as the principal central meeting place where White House and Executive Agency legislative liaison people meet with Senators. Canfield is very careful not to exercise any "line responsibility" for legislative liaison and does not himself in any way lobby for the administration's legislative program.

IV. Casework

Four of the eight staff members do casework, 15% of which comes from New York. This seems to be mostly an agency buck slip

operation. "Casework" includes what we call "requests" or constituent services. Since the Vice President is part of the Executive as well as the Legislative branch, Canfield believes that it is important that caseworker be facilitators rather than advocates. He sees this as a different kind of operation from that in the Senate office.

V. Mail

The Vice President's Senate Office handles all "public" mail, mostly legislative mail, about 5-600 letters a day, keeping about one and a half people busy full time.

VI. Ceremonial and Official Functions

The President of the Senate is the official receiving agent for all communications to the Senate including reports from Executive Agencies mandated by law, petitions and memorials, and communications from state and local governments. This occupies one full-time staff person. Letters of transmittal are logged in, referred to the Senate Parliamentarian and an acknowledgement letter prepared. There are between ten and thirty of these a day.

Ceremonial functions involve such things as the authorization of demonstrations on Capitol Hill grounds, tree plantings and the like, arrangements for Foreign Policy luncheons, meetings with heads of state, joint sessions of Congress and other ceremonies in which the Vice President participates on Capitol Hill.

SPECIFIC FUNCTIONS AND RESPONSIBILITIES

In general, the responsibilities of the Capitol Hill operation may be divided into four main categories:

PRESIDENT OF THE SENATE - It is important that the constitutional responsibilities that fall to the Vice President be carried out with competence and speed. This role combines liaison, ceremonial and administrative functions, and while it cannot be considered to be of a truly substantive nature, especially when compared with the Vice President's responsibilities in the domestic and foreign affairs fields, it is, if only because of the high visibility of the role, a very important area. The Vice President has established a strong - and a much appreciated - record in this area to date, a record I am hopeful will continue.

LEGISLATIVE - This function of the office may be broken down into three components. The first is the tracking of all important legislation in both the Senate and the House, with particular importance given to those areas in which the Vice President and the Administration have the greatest interest.

A second area is the responsibility to brief the Vice President - and senior staff - by memorandum, as well as verbally, on specific legislative initiatives. The issues would include those that emanate from the Congress itself, or from the Executive Branch.

The third basic area is the responsibility for legislative correspondence. A large volume of mail from the public comes to the Vice President requesting information and his position on particular bills or legislation in general. Because the Vice President is the second highest elected official in our Nation, it is incumbent upon this office to respond expeditiously, as well as concisely, to such correspondence.

LIAISON WITH THE CONGRESS - Because of our proximity and availability to Senators and Representatives, as well as their senior staff and the staff of the Committees, this office acts as the primary contact for the Vice President with the Congress. As a courtesy, we also serve in a similar capacity for high ranking White House and Executive Department officials.

This responsibility may be broken down into three basic subject areas, the first being contact with Members and key staff people. In this role, we act as a two-way funnel for information between the Congress and the Executive Branch.

Four

A second basic area is that of service to the Congress. In that role, we try to offer whatever assistance we can in a wide variety of areas on a nonpartisan basis.

A third basic area is that of providing, upon request, information that is more readily available to the "Office of the Vice President" than to a single Senatorial or Congressional office. Again, we, as much as possible, work on a nonpartisan basis and treat each request equally. This can be a sensitive area; thus, caution and restraint are imperative.

LIAISON WITH THE PUBLIC - Because this division is the most accessible to the public, and because we have been designated to receive the majority of the correspondence that requires more than a simple form reply, the Capitol Hill office serves as a primary point of contact with the public on behalf of the Vice President. In this regard, we process what is generally called "casework." This includes general requests for information on the Congress and on the operation of the government in general, as well as constituents' problems with various government agencies. We try, as with our role with Members of Congress, to provide whatever assistance is possible and have, in many instances, been able to be of help to these constituents with problems.

OVERALL CONCEPT AND OBJECTIVES

Essentially, the Capitol Hill division of the Office of the Vice President should operate as a liaison and service-oriented office. There are, certainly, substantive aspects to the function of this particular office and those will be delineated at a later point. It is imperative, however, that the person heading up the operation realize the limitations of the role that is to be played on the Hill. It is equally important that the Executive Office Building staff, and particularly the Secretariat and senior staff, be cognizant of these limitations.

Because of the sensitivity of the Senate and House Members - and their staffs - and the sensitivity of the White House and agency liaison personnel to "meddling," it is absolutely necessary that this operation present an image of working in concert with the White House, rather than in competition with or in addition to, the in-house Congressional Relations personnel. This is not to say there is not a role for this operation to play in the Administration. Quite to the contrary, there is a very important role to be played. This is true not only because of our proximity to the Members themselves, but also because of the resources from which this staff can draw.

Again, in order for the Capitol Hill office to be effective, it must be understood that we operate in tandem with the established liaison people within the Administration. Our role should be one of service and assistance to those with the line responsibility for the development, tracking and implementation of the President's legislative program.

From experience, I am convinced that lean staffs operate more efficiently. An important outgrowth of the reduction and reorganization of the Vice President's Hill office will be an increased ability to perform important tasks. It is important that a staff have the capability to respond effectively and quickly to unexpected problems and requests; it is equally important that a staff be able to plan and carry out long-range projects. The most important factors contributing to such an ability are control and a recognition of the role the office is to play. This is especially true in the politically sensitive atmosphere that exists on the Hill.

Ideally the office will serve as "the eyes and ears" of the Vice President on the Hill. We are in a unique position to do so, and we have the ability to play an important role for the Vice President.

Two

Additionally, we can provide, on an almost unlimited basis, broad support for the efforts of the Counselors to the Vice President, particularly, because of the nature of his responsibilities, Jack Veneman. We also have the capacity to provide the same type of assistance to those on the Domestic Council staff who are charged with developing legislative initiatives for the State of the Union address. In that regard, however, it is imperative that our efforts be low-key, so as to avoid creating tensions within the White House staff structure.

On a more substantive basis, the Vice President (and thus the Capitol Hill office) should utilize the goodwill he has created among the great majority of House and Senate Members to aid in specific areas, such as the Energy Independence Authority proposal.

The Congress as a whole responds very favorably to those who go out of their way to discuss problems and seek advice. Within the constraints of an increasingly busy schedule, an effort should be made to have the Vice President available to meet individually with Members, or in small groups, to discuss important matters.

The Hill office should be charged with the responsibility and authority to develop specific proposals for such meetings.

October 30, 1976

M E M O R A N D U M

TO: Senator Walter F. Mondale
FROM: Robert B. Barnett
RE: Presidential Transition Act of 1963

This memorandum provides a brief description of the Presidential Transition Act of 1963, as amended in 1976. This is the legislation which will govern the period between the election on November 2, 1976 and the Inauguration on January 20, 1977. A copy of the amended Act is appended to this memorandum. I have also included a brief overview of the 1968-1969 transition period prepared by the Government Accounting Office.

Background

Prior to the enactment of the Presidential Transition Act of 1963, there was no formal provision or mechanism for the transfer of power when a new President was to assume office. Moreover, there were no federal funds to pay for the expenses incurred by the President-elect or the Vice-President-elect during the period between the election and the Inauguration. An in-coming President and Vice President were left on their own in determining how to organize a new Administration. There were forced to rely upon what personal funds they had available, or those which they were able to raise privately, to pay for transition expenses.

Presidential Transition Act of 1963

Declaring its purpose to be "to promote the orderly transfer of the executive power in connection with the expiration of the term of office of a President and the inauguration of a new President", the Congress enacted transition legislation in 1963. The Act states that the national interest requires transitions to be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the domestic and foreign affairs of the Federal Government.

Congress recognized that any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States. Accordingly, Congress expressed its intent that appropriate actions be authorized and taken to avoid or minimize disruption.

Funds - The 1963 Act authorized a sum of \$900,000 to be appropriated for a Presidential transition. This sum covered the expenses of the in-coming President and Vice President as well as the expenses of the out-going President and Vice President.

During the single transition to take place under the auspices of the 1963 Act, the in-coming and out-going Administrations split the \$900,000 equally.

Services - The 1963 Act authorized the Administrator

of the General Services Administration to provide necessary services and facilities to the President-elect and the Vice President-elect.

Staff may be hired at a rate not to exceed the GS-18 level. The GS-18 level translates to approximately \$140 per day. Read literally, the Act seems to provide that employees will be covered by Civil Service retirement, by workmen's compensation, by life insurance, and by health benefits. There is no statutory limit on the number of employees that may be retained during the transition period.

The 1963 Act further provides that employees may be detailed from any agency of any branch of government. Detailed employees continue receiving the salary of their previous employment with uninterrupted rights and privileges. Under the 1963 Act, detailed employees could be provided on a reimbursable or a non-reimbursable basis. The 1976 amendments require reimbursement to the agency of origin.

Office space, furniture, furnishings, office machines, office equipment, and office supplies are also provided under the 1963 Act. Apparently, the cost of such materials, if in the GSA permanent inventory, are not charged to the transition account. Other materials, such as office space outside of a government building, would be charged to the account. The dividing line is not spelled out in the Act.

Experts or consultants may be hired by the President-elect or the Vice President-elect under the terms of the 1963 Act. A top rate of \$100 per day was imposed by the 1963 Act. This was removed by the 1976 amendments. The current ceiling is that set by the Administrative Expenses Act of \$145 per day.

Travel expenses and subsistence allowances, including the use of government vehicles and private, rental transportation, are permissible under the 1963 Act. The Act also covers communications services, the payment of expenses for printing and binding, and postage.

Procedure - Under the terms of the 1963 Act, the President-elect and the Vice President-elect will designate an assistant to act as their transition representative with the GSA. Up to ten percent of the expenditures by a President-elect or Vice President-elect may be certified as relating to national security and may be classified.

The Government Services Administration provides services and facilities during the transition period and administers the funding in accordance with the Act. The Office of Management and Budget apportions the funds to the GSA.

1976 Amendments to the Presidential Transition Act

It soon became clear that the \$900,000 sum was

inadequate to finance a Presidential transition. In 1976, the Congress amended the 1963 Act to increase the funding of a transition and to make other needed changes in the 1963 Act.

First, the 1976 amendments removed the \$100 per day ceiling on the payment of consultants. The Act now sets the level of payment for consultants at the level set by the Administrative Expenses Act of 1946 -- \$145 per day.

Second, the 1976 amendments provided that employees detailed from agencies for use by the President-elect or Vice President-elect during the transition period would be detailed on a reimbursable basis.

Third, and most importantly, the 1976 amendments authorized an appropriation of \$3 million dollars for the transition. A sum of \$2 million may be appropriated for the President-elect and Vice-President-elect. A sum of \$1 million may be appropriated for the former President and former Vice President.

The apportionment of the \$2 million between the President-elect and the Vice President-elect is not specified by the 1976 amendments. The legislative history reveals that the apportionment is technically within the province of the General Services Administration. However, it seems clear that GSA will abide by the apportionment agreed upon by the incoming President and Vice President.

Apportionment of Funds

Since the apportionment will probably be agreed upon by Governor Carter and WFM, it may be useful to you to have some indication of the precedents on the subject.

The legislative history of the 1976 amendments reveals that the incoming Kennedy administration spent approximately \$1.36 million. There appears to be no record of how much of this was spent by incoming Vice President Johnson. This money was all from private sources. The Presidential Transition Act had not been passed.

The legislative history also reveals that the incoming Nixon administration spent approximately \$1.5 million. Included in this sum was the \$450,000 provided under the 1963 Act. The remainder was raised from private sources.

According to the testimony of the Administrator of GSA, in-coming President Nixon and in-coming Vice President Agnew split their public transition funds on a 95-5 basis. Nixon spent approximately \$430,000, and Agnew spent approximately \$19,000 of the public money. There is no record of how the private funds were split.

Out-going President Johnson and out-going Vice President Humphrey split their public transition funds on an 80-20 basis. Johnson spent \$370,000, and Humphrey spent \$74,000.

You will, of course, want to receive a portion of the \$2 million available to the in-coming Administration which is adequate to meet your needs. There are several ways to approach the apportionment.

Looking at the inflation-factor is useless. According to the legislative history of the 1976 amendments, it would require about \$2.6 million in 1976 to equal the \$1.4 million spent for the in-coming Kennedy Administration in 1960. It would require about \$2.5 million in 1976 to equal what \$1.5 million purchased for the in-coming Nixon Administration in 1968. If you look to inflation, the \$2 million is per se inadequate.

I would suggest that you ask for 20 percent of the available funds. Twenty percent does not seem to be over-reaching. It would provide you with \$400,000 and leave Governor Carter with \$1.6 million. The 80-20 split has precedent in the 1968 Johnson-Humphrey split by an outgoing administration. The entire in-coming team spent \$1.5 million in 1968. A sum of \$1.6 million for the in-coming President alone seems reasonable. (The precedent working against you is the 95-5 split of public funds by Nixon and Agnew in 1968. However, that split does not account for the split of private funds which probably gave much more to the in-coming Vice President.

Several unresolved questions exist in light of the 1976 amendments to the Presidential Transition Act and the passage of the Federal Elections Campaign Act.

First, the propriety of using Senate staff, on the Senate payroll, for transition purposes after the election is unclear. If they are available to you and their salaries are available to you during the transition period, you will want to consider their value when asking for a share of the transition money.

It is clear that, if the Senate staff members are detailed to you under the 1976 amendments, their salaries must be reimbursed and their salaries must be considered in the portion of the \$2 million you receive. It may be argued, however, that they can work on transition matters without being formally detailed. The analogy is to a Senator who is defeated for reelection. His staff works on transition. That is their only responsibility. Similarly, should not a newly-elected Vice President be allowed to use his Senate staff for transition purposes without violating any rule of the Senate or considering the staff as detailees under the 1976 amendments?

In any event, you will want to resolve the status of the Senate employees after the election and consider the source of their salaries in any request for a portion of the transition money.

Second, it remains unclear whether private money may be raised after the election for transition purposes. There is no prohibition in the Presidential Transition Act. Although the 1976 amendments provide for reimbursement of the salaries of detailees, that provision may be designed to enforce the ceiling on the expenditure of government funds and not to put a ceiling on the expenditure of funds in general.

The Federal Elections Campaign Act, as interpreted by the Federal Elections Commission, prohibits the raising of private funds for transition purposes before the election. You will have to determine whether that prohibition extends to the post-election period. The pre-election danger is that the candidate will seek to spend money on transition matters or raise money for transition matters while really applying the "transition" work to campaign purposes in violation of the prohibitions and ceilings of the Federal Elections Campaign Act. That danger is gone after the election.

Even if it is determined that private money may be raised for transition work after the election, there will remain a political question as to whether to do so. In any event, this problem will have to be resolved.

I have not sought to contact the appropriate agencies for answers to these questions for obvious reasons. In addition, they are better raised by a President-elect or a Vice President-elect than by a Presidential or Vice Presidential candidate.



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