

Richard Nixon Presidential Library
White House Special Files Collection
Folder List

<u>Box Number</u>	<u>Folder Number</u>	<u>Document Date</u>	<u>Document Type</u>	<u>Document Description</u>
36	16	01/04/1969	Memo	Memo from Nixon to Ehrlichman re: summer residence purchase as opposed to construction. 3 pages.
36	16	n.d.	Other Document	Haldeman Handwritten note for Nixon meeting touching on Agnew function, staff Administration posts Ag task force. 3 pages.
36	16	12/30/1968	Other Document	Haldeman Handwritten notes re: Nixon's new year's eve plans, staffing Administration. 3 pages.
36	16	01/02/1969	Other Document	Haldeman Handwritten notes re: Roy Ash Memo. 5 pages.
36	16	01/03/1969	Memo	Memo from Nixon to Haldeman re: Nixon schedule while on vacation. 1 page.
36	16	n.d.	Other Document	Haldeman Handwritten notes re: staffing assignments. 1 page.

<u>Box Number</u>	<u>Folder Number</u>	<u>Document Date</u>	<u>Document Type</u>	<u>Document Description</u>
36	16	12/20/1968	Other Document	Note re: Greenspan call about Burns' meeting with Nixon, crucial to convince Burns to join staff. 1 page.
36	16	12/20/1968	Other Document	Haldeman Handwritten notes re: Doris Kearns discussion about coordination of summer youth programs, finding needs & priorities in each department and evaluate programs. 2 pages.
36	16	12/20/1968	Memo	Memo for Haldeman re: Bud Wilkinson appt as special assistant to the President for coordination of independent boards, committees and commissions. 1 page.
36	16	12/20/1968	Other Document	Biographical information of Henry Loomis. 1 page.
36	16	12/14/1968	Memo	Memo from Harry Fleming to Ehrlichman re: White House Personnel Office, advocating a separate arm that concentrates on providing staff members more in tune with Administration than with Civil Service. 3 pages.
36	16	12/15/1968	Other Document	Haldeman Handwritten notes for staff meeting, staff at Pierre, and schedule of travel. 2 pages.
36	16	12/20/1968	Other Document	Haldeman Handwritten notes re: list of boards, Bryce - Civil service commission, staff assignments. 1 page.

<u>Box Number</u>	<u>Folder Number</u>	<u>Document Date</u>	<u>Document Type</u>	<u>Document Description</u>
36	16	12/09/1968	Other Document	Haldeman Handwritten notes re: Moynihan assignment, Agnew ideas, vacation plans, game plans (sit on both sides). 3 pages.
36	16	12/08/1968	Memo	memo from Peter Flanigan to Haldeman re: tax issues when moving to or from short term government service, with attached letters from IRS and Frank Wozencraft. 9 pages.
36	16	12/08/1968	Other Document	Haldeman Handwritten notes re: cabinet announcement, cabinet communication procedures, and staff communication procedures. 4 pages.
36	16	12/15/1968	Other Document	Haldeman Handwritten notes re: Whitaker Cab. Secty, plan birthday party in New York, Shultz, McCann and DDE, and Wilkinson to HEW. 3 pages.
36	16	12/13/1968	Other Document	Haldeman Handwritten notes re: background on Nixon planning cabinet, make Agnew contact with LBJ, confer with LBJ's librarian to see how they kept original papers. 2 pages.

January 4, 1969 - RN Tape

TO: JOHN EHRLICHMAN
FROM: RN
RE: SUMMER RESIDENCE

File

I have decided against having the Marine Corps build a summer residence for the President at Camp Pendleton.

There are two options which I would like explored. The first is to find some separately isolated house that I could buy personally somewhere below Laguna and above Oceanside. In that way we could use the Marine Corps Air Base for a landing field and have rather quick access to the property.

On reflection, while I would like to have this house on the beach I realize that privacy in such a crowded area might be very difficult. If one could be found within 5 or 10 minutes driving time from a good beach this might serve the purpose. What I would suggest is that the Marine Corps make available a good swimming beach on their property and then I purchase a house which is not too far away from it.

A second possibility -- which probably would present insurmountable legal problems -- would be for me to build a modest residence upon Marine Corps property and on their beach and then give the house to the government.

My major concern is the unfavorable publicity that might accrue if we allow a very expensive residence to be constructed by the Marine Corps. The armed services^{are} wasting money, on a very extravagant basis around the world, and I am going to urge Laird to cut into this waste on a massive basis. I can't do that on the one hand and then have the Marine Corps build a residence for me at the same time.

The handling of Key Biscayne I think has been proper up to this point. I am putting out all of the money to buy the property and, of course, will pay for the redecoration, etc. All that the government will provide is the helicopter pad and a place to land a boat. Both of these actions in the long run save money because of the need for additional security in the event that I used a public boat landing or a helicopter pad which was not adjacent to the residence.

For purposes of PR you ought to get the exact figures on how much money the government has invested in the facilities at the LBJ ranch. I think landing strip, roads and other buildings they have constructed should amount to something near three million dollars. There is also the immense amount of office space he has in Austin. I want you to get me a complete run-down on what has been spent for Johnson and have this available for Klein and others in the event that any columnists are raising questions about the very modest amounts that are being spent for me.

In this connection, as you probably are aware, Eisenhower's El Dorado house was given to him by friends and the same is true of the place that was made available to him at Augusta.

Let's just be sure that since I am being extremely careful to avoid milking the public treasury that we get the proper credit or at least avoid discredit.

As far as the residence in California is concerned, I would be willing to put up \$150,000 to \$200,000. It would be my plan to sell the property which I own on Whittier Boulevard in which my mother lived and to reinvest that into this property. What is probably needed here is a very discreet personal friend who will roam around that area and find a good place which we can purchase near the Marine beach property. What we might find is that we should take a house that may have the basic requirements as far as plumbing, etc. are concerned which might require remodeling. From a political standpoint I am very anxious to work out a deal on this as soon as we can find the right property. I don't like the idea of being a Florida resident and while we will allow this situation to go on for about a year because of various considerations, at an appropriate time I think the California residence will become my domicile for all purposes, tax and otherwise.

#

Hughes

Arthur Burns 758-9851 / 826-6581

Malcolm Ross 969-3046 5 Babana *file*

RN
4/1

Harden

- Harden wants to annu. next week
I'm to call him - set day etc
RN will come over for annuents.
11:30

v - ag. task force? - he doesn't know who or if
shld have names - ~~will be in DC soon~~ ^{home} ~~over Dick Herman~~ ^{in one h}

- Bunje - as one of apptees for Agn. - 402-432-6050
shld have one from Calif. 6050
tell Harden his the one RN mentioned

Pres Col State Bill Morgan - retiring
if Harden doesn't take him - Michel shld.

talked to E + M -
still a prob. of struggle Agnew + Magnihan
acc E this was discussed.

M
Ag
Morgan

Council shld be complaint board
not policy development
Agnew + Bz are implementation of policy

Magnihan - nothing to do w/ DC - except in
broad policy.

2/ show all appts off til 11th - hard-ward.

I have mtg - Moynihan + Agnew / N there
hammer this out -

also have Kissinger - understands difference
between policy + implementation

Moynihan has to do some thing
if city has prob. they don't go to Moynihan

Agnew coordinates etc. - he talks to cities
must work w/ Moynihan

make clear that Moyn. doesn't own DC

let Justice handle - no direct contact to W.H.

if mayors have policy q. - go to Moyn.

if specific action problem - go to DC

Agnew shld call on depts - use all of them
not just his own little staff.

have to take typical cases + work out one by one

Moyn. concentrate like Kiss on Urban Policy
Planning Bd - drawing stuff from depts

N doesn't want to meet w/ them -

Agnew shldn't have come to RA

I'm unsure in jurisdictional fights

always have both for appeal

M
Ag
Moyn

public image - everyone reports to Pres
actually no one shld report to him
he has to concentrate on Natl Secy

put people in E. Wing -

need Ash - as one man Hoover Commission

talk to M - have to get someone with Michel
concerned re F - under sec

somebody imm. look at ind. agencies -

start naming people

don't meet w/ Blair until deal is ready -

knocking off the traditional dinners

before mtg Ag + Moyr -

talk to Pat ahead of time

tell him how much he is etc

don't get involved in day-day - i.e. DC

stay w/ big policy decisions

DC take too much time -

use Kissinger to help.

Ag
Moyr
✓

RN

12/30 9:38 PST
from KB to P.S.

report to Hughes

File

no plan for N's Eve

ch on Bob Hope's NY Eve party -

see if he's having - don't tell him

RN will drop by - no publicity

covering on memo - delicate matter - w/ M + I

long talk w/ Agnew re his + Bob's idea

building staff - experts in

housing - welfare - etc.

*M
Agnew
Moynihan*

g. of how this duplicates cabinet + Moynihan

on staff of this sort M + I should lay out guidelines

he can't set up little group of experts

will compete w/ Moynihan + Finkel

say N talked w/ me - I want to coordinate it.

bring in Bill Rogus - to point out how N was

most successful VP - + with no staff

should have generalists -

+ then have depts assign him liaison men

prob. Volpe + Heichel - Peter F. doesn't have enough stake
need to have M step in + add weight

2

F - has he gotten anyone -

Elliot / Richardson may go into State

Thinking of Ben Lincoln as ~~DOE~~ OEP

Moodyparten to NATO + then Chas JCS

weak in area of ind. agencies

have to get strong people in there

esp NASA, Poverty, etc., USIA

P.L.

I should ride hard on them -

need really major search - as in Cabinet

use Packard + dub ridge for names

talk with Murphy re other names -

plan on Ash - is dollar/year?

no. I think bill come on regular basis

empt. at early date - keep Stans + others from

over reaching - quoting extra - also Romney

situation re Kappel report -

ask Jim Jones -

Jones

Dick Moore - re Bob/Hopie - off. 467-4157
Jimi Jones - LBT?
then Cole etc
Kappel report plans
Frick - his status re staff
- plans for Orange Co

Hope
762-8842 ~~Miss Hughes - secy.~~

^{12/31}
Hughes -
RN says I talk to Bryce - RN says
our ducks are not in a row yet
so will talk to Bliss later
10th Sat - new State Dept announcements

Ray Ash Memo
1/2/69

File

As I stated to Mr. Nixon, I believe I can accomplish the program set forth in my recent memo and would be very willing to do so, if you find my limitations acceptable.

If we can together determine the answers to the questions below, I believe you will be in a position to make a final decision.

1. Does Mr. Nixon regard the problems outlined in my memo, and also by others, as critical and in need of important attention and action? Does he want to commit a significant effort toward improvement of the particular Executive Branch functions described - now or in the near future - including proposals for legislation that undoubtedly will be necessary at some time, knowing that virtually any proposal to change the organizational or procedural status quo will meet resistance, including some from his own Cabinet?

2. Is my concept of the general direction of solution fitted to Mr. Nixon's desires and style or does he prefer the approach suggested

by the Task Force on Organization of the Executive Branch? My approach, admittedly derived from my own management experience, clearly creates stronger concentrations of managerial responsibility rather than additional fragmented ones. Where my recommendation is to establish, for the five related functions described, one point of responsibility to the President, the Task Force proposal instead adds two new offices directly reporting to the President plus one new directly reporting committee, and still doesn't encompass the functions I recommend be performed.

3. Can a sufficient part of my proposal be accomplished without requiring legislation at this time? Mr. Ed Morgan has researched this point and should have the results by now. Requirements are for adequate staff authorization as well as for responsibility allocation.

4. Is Mr. Nixon prepared to discuss with Mr. Mays the relationship of the new function to the Bureau of the Budget, and to acquaint

The Cabinet members with his objections for the new office? Budget will be sticky for a while

5. Will it be acceptable if I place my ownership of Litton stock in a trust during my service with the Government, allowing the trustee the full authority to administer the trust but explicitly relieving him from the obligation to sell Litton shares? Similarly, as to an interest I have with Mr. Thornton in a partnership which owns Litton shares, a trustee for my interest would be appointed. In this case, Mr. Thornton as majority partner would effectively make the partnership decisions regarding the stock. Although the two of us own the stock, we have committed that it shall be used for the ultimate benefit of Litton executives and employees and will not accrue to our own personal benefit.

If we together can answer these questions to your satisfaction, I recommend I join the Administration as Assistant to the President. If a further descriptive title

is desired, although I see no particular need for it, it might be (- Executive Management) or (- Organization and Management).

In contrast to the discussions concerning the role of the Director of the Bureau of the Budget, I feel this position is me to make substantive policy contributions on subjects for which the incumbent is qualified and prepared. Certainly, also, the incumbent's effectiveness will in large measure be in direct proportion to Presidential support, which support, of course, must be justified by performance.

Because of the newness of such a position and the possible uncertainties that many will have as to its significance, I do recommend it physically have a White House office as a minimum symbol of its role relative to others in the Executive Branch. I see this new function, as it becomes operational and formalized at some later time, as fully equivalent to a Class I position.

Personally, I need minimum "therapy" as Mr. Nixon uses the term. Performance itself will take care of subsequent events.

If you are Mr. Nixon wish, I am prepared to proceed on the above basis. If the limitations deriving from my latter stock ownership are not acceptable, and Mr. Nixon desires to carry out the outlined work program I will continue to seek a qualified alternate candidate. Or, if he would prefer to undertake at this time just a portion of the complete program outlined, such as an effort concentrating on Executive Organization alone, or Program Planning alone, or Program Coordination alone, I will seek a qualified candidate for that.

If he would prefer to concentrate on other of his tasks during the next year or two and defer a major move or commitment in the direction outlined, I can informally continue a level of preparatory work for that time and also be in a more acceptable stock ownership position for that later time.

also will look to look as major personnel man
for recruiting & evaluating top-level people
esp. Ind. agencies and commissions

January 3, 1969

MEMORANDUM

TO: Bob Haldeman
FROM: RN
SUBJECT: RN Schedule on Vacation



Don Hughes was put in a difficult position on two or three occasions in Miami because he had not had adequate guidance as to the rules that I want followed when on vacation as far as personal requests for appointments are concerned.

V. J. Skutt, Jimmy Doolittle, and Jerry Ford's brother were among those who asked to see me, and Don naturally thought he should submit these requests to me.

I want a hard and fast rule adopted that when I take these vacations there will be absolutely no exceptions where personal requests of this type are concerned. Everybody that wants to see me of this type should call direct to Washington.

Hughes - have RN call Lockheed and see
- maybe anne. while here
Schulz could come out tonight - announce
Or Schulz doesn't have to be here

James Hodgson - 847-6682 res 344-4094

Ray - S+N feel he'll be excellent

happy to have him join.

call Schulz 202-961-2064 - (Labor Dept)

Hulow

prob. of clearance -
Lind + Packard.

More info to inform Gov + Sen
than 3rd level Congress

1/9 *file*
Allen Greenspan called re R. E. Burns' meeting with RN at 1:30
this afternoon. Wanted to relay thrust of what was on Burns' mind
and request that you phone him for additional details. McChesney *Martin*
arrangement has apparently fallen through. On basis of this Burns
is now deciding not to go to Washington. Greenspan strongly feels
that Burns should go to Washington and believes that if meeting with
Burns is handled right Burns will go. Greenspan's number is 688-5518.

*Not really certain RN wants him.
As of now - will probly not go.*

*There is a real void - need someone
like Burns who understands + can handle
Martin + Burns didn't talk til this week -
Burns feels Martin not committed.*

Doris Kearns
12/20

file
DORIS
KEARNS

[Bar Brown - ck out labor dept youth program
with young people in factories
N. Youth Corps - delegated to Labor for OEO

got feeling that NAB summer program didn't work
should dismantle -

and use NYC & other existing groups
soft programming instead of shotgunning
& getting business as in
need to focus what you ask business for
letter to get schools to stay open

there is no coordination of summer intern program
each agency is independent

Key is to go to alienated groups &
have them self define their needs & priorities
include going to white middle-class population
find out what matters most to each class

include people in gov't in our test forces
let them be heard - they know what's what.

- 1- evaluate present programs
- 2- estab. focal point in each dept & agency
Don't concentrate in just one dept / e / HEW
Put things into each agency that's concerned
from Pres to each Secy - ask
- 3- coordinating mechanism - WH or one dept.

re WH fellows - don't bring in the type
that would have come anyway -

December 20, 1968

File

MEMORANDUM FOR HALDEMAN -- ACTION

RE: BUD WILKINSON

I propose that Bud Wilkinson be appointed Special Assistant to the President, and that it be understood that his role is that of general assignments for the President with particular responsibility for coordination of the work of all independent boards, committees, and commissions as they relate to the office of the President.

These commissions and committees include a wide range of subjects ranging from the Advisory Board on National Parks and Monuments through the Advisory Committee on the Arts, Historic Preservation, Foreign Scholarships, Presidential Scholars, Preservation of the White House, Commodity Exchange, Consumer Advisory Council, Distinguished Civilian Awards, Federal Fire Council, Inter-Agency Committee on International Athletics, Indian Arts and Crafts Board, Radio Advisory Committee, Maritime Advisory Committee, Advisory Council on the Education of Disadvantaged Children, National Park Foundation, Commission on White House Fellows, Council on Youth Opportunity, Council on Aging, Council on Physical Fitness, Council on Recreation, etc.

H
HRH

Born April 19, 1919, in Tuxedo Park, New York.
 Married Mary Paul Macleod of Berwin, Pennsylvania.
 Four children: Henry Stinson (21)
 Mary Paul (18)
 Lucy Farnsworth (12)
 Gordon Macleod (11)

Harvard University; A. B. 1941.

Presently Partner in St. Vincent's Island Company, 45 Wall Street, New York, New York. (Risk Capital Business)

February 1965 - March 1966: Deputy U. S. Commissioner of Education, Department of HEW.
 1958 - 1965: Director, Broadcasting Service, USIA.
 1957 - 1958: Staff Director to Special Assistant to President for Science and Technology
 1954 - 1957: Chief Office of Research and Intelligence, USIA.
 1953: Staff of President's Committee on International Information.
 1951 - 1952: Consultant, Psychological Strategy Board, Washington, D. C.
 1950 - 1951: Assistant to the Chairman, Research and Development Board, Department of Defense.
 1947 - 1950: Assistant to the President, Massachusetts Institute of Technology.
 1945 - 1947: Radiation Laboratory, University of California at Berkeley
 1940 - 1945: U. S. Navy, Lieutenant Commander. Specialized in radar; on the staff of the Commander-in-Chief. Established and ran radar maintenance service and radar operations school.

Honor received while working for the government.

1963: Recipient of the Rockefeller Public Service Award for Foreign Affairs.
 1963: Received USIA Distinguished Service Award.

On the Board of Directors of the following companies:

Miter Corporation, Bedford, Massachusetts.
 Riverside Research Institute, New York, New York
 Conservation Foundation, Washington, D. C.
 African Wildlife Leadership Foundation

Member of: Council of Foreign Affairs (New York, New York)
 Washington Institute of Foreign Affairs
 Metropolitan Club, Washington, D. C.
 Myopia Hunt Club
 Middleburg Hunt Club
 Cruising Club of America
 (sails his 38 ft. Ketch, "Land's End")

File

~~HRH ACTION?~~
1 Harlow
2 RV
3 go OK

December 14, 1968

MEMORANDUM

TO: John Ehrlichman
FROM: Harry Flemming
RE: White House Personnel Office

The function of this office should be to screen and recruit candidates for positions in the government which are exempt from Civil Service. In the past Administration this office was combined with and given to the Chairman of the Civil Service Commission. During the Eisenhower and Kennedy Administrations the office was held by a Special Assistant to the President.

Although there are benefits to be gained by combining the authority to hire all government personnel in one office through the Civil Service recruitment process such a practice will not uncover men who are responsive to the President. It is much more likely to produce people responsive to the commission that appointed them, which commission is not equipped to recruit people with that "extra dimension" of excellence demanded by the President-Elect. The people who run and staff the Civil Service Commission have historically looked upon Presidential appoint-

ments as a last vestige of the spoils system and are antagonistic to it. I do not think this can be overcome by the appointment of three Commissioners.

If we are to provide personnel compatible with the heads of the individual departments but responsive to the President, the White House should play a major role in the selection and appointment process. I therefore propose that the office be returned to the White House to function pursuant to the following guidelines.

RECRUITMENT

We should continue the present transition program of actively soliciting people for Presidential appointments, which process should include private interviews and reference checks which are conducted under the direction of a White House staff member.

SCHEDULE OF AVAILABLE POSITIONS

The office should maintain a roster of available political appointments, which roster should include positions available for the appointment in the reasonable future by reason of anticipated resignations, termination of tenure or lack of suitability of the incumbent appointee.

CONGRESSIONAL AND PARTY LIAISON

The office should collaborate with the Assistant to the President for Congressional Liaison as well as State Party Officials and Nixon State Chairmen in the

various states in order to insure the most effective political use of appointments.

CENTRAL DATA BANK

The use of EDP should be upgraded on a continuing basis in order to provide the best possible reservoir of information and should be used in conjunction with the data bank maintained by the Civil Service Commission in order to search and find competent career people in government whose talents have not adequately been used in the last two Administrations.

It is my opinion that the very existence of a separate office responsible solely for political appointments will in and of itself be a big step forward in deterring the entrenchment process which inevitably leads to a strong bureaucracy in which the employees become sensitive only to the needs of their own department instead of the overall needs of the Executive Branch of government.

12/15/68

~~Call Ann for Whitaker
Make Patterson Appt for Thursday~~

~~fly~~

2 tops. , Day , acknow,

~~Staff mt.~~

~~memo to people. at Pierre 1st thing
Some for tops..~~

~~Chief - what do we call.~~

~~Put at Joan Carrolls desk.
Do tops, put thing. look at other
letters for form ed. Some for Memor.~~

~~Broom - down to Worthington, Tuesday + Wed.~~

~~Start w/ Hopkins
Probably not need two days.~~

~~Patterson - set up Appt. at time when AD
has Appt. Can sit in.~~

Re Security Packet - do now prior
to staff mtg.

Krogh send to people now with memo.

RN

12/20

File

K/Hopkins list of all boards etc to reward people

Bryce - Civil Service Comm.

Dam - Don't get young Southerner
you tell Hampton he's chosen.

+ don't let him ~~know~~ think he's in charge
he is our man - period
then Fletcher as only Negro.?

Garment stay out - work with us.

Hill etc for Bill Rogers. —

RN
M-F
12/9

File

- re Moynihan

- 1 - ck w/ Cash

2 - what does it do to CEAT McClachan

3 - is he too liberal

problem of Agnew's role

RN will be chair of council

lean to Chaffee for OEO.

Mck NR re Eva Port

get her in today

Moynihan -

for Urban Affairs

talk to Cash - Kissinger if here -
McClachan if here

M - talk to Agnew re W. Washington
he has ideas for using him - v. good
ask Ello to brief M.

E - Rita Hanson asst. Dep. Counsel

Ells. - you on list of jobs to Govs.
per RN promise
Agnew's resp. - Ells. handle
in form of ltr for Agnew

Moyzidan - sit in w/ J. Gardner Fri -
also Ells.

Spot ck - have w/ you re Val Peterson

Ells. deal w/ big businessmen - Congman
Byce use him

R - Rose go to Wash for bufy W/Th

- re vacation plan -

Can't go to P.S. - because of Downs
from 22 on thru Mon 6 - staff off.

Skeleton staff - press lid on
have Whittier move up to Thurs 2nd
then leave.

[Have Mayo come in tomorrow (M)]
nite of 1st at Century Plaza
Whittier re 2nd - then back to NY
week of 6^E clear for speech 3rd

Staff

re game - Asa call - SC do card stunt for PN
+ some ceremony -

if you Woody Hayes + Jim Rhodes
sit on both sides. -

cut down on SS around RN.

maybe have sit in box - but

avid fan - wants to sit up where can see

Peter M. Flanigan
Deputy Campaign Manager

Nixon Agnew
Campaign Committee

450 Park Avenue
New York, N.Y. 10022
(212) 661-6400

December 8, 1968

To Messrs. Haldeman ✓
Ehrlichman
Harlow
Kleindienst
Knudsen
Flemming

The attached letters were written regarding the maintenance of certain company benefits by short-term (two to four years) government employees. It may be useful to you in encouraging candidates for government service to leave their jobs.

PMF

US Treasury Department

RECEIVED

JAN 17 10 53 AM '68



OFFICE OF LEGAL COUNSEL

Internal Revenue Service
Washington, DC 20224

Date: JAN 16 1968

In reply refer to:

T:L:1:2:1

▷ Honorable Frank M. Wozencraft
Assistant Attorney General
Office of Legal Counsel
Department of Justice
Washington, D. C. 20224

Dear Mr. Wozencraft:

You have requested the opinion of the Internal Revenue Service concerning certain Federal income tax consequences relating to a proposed personnel interchange program between the Federal government and private business.

According to the information which you have provided, employees in business will receive appointments in government and employees in government will receive similar appointments in business. The period of the appointments will be two years, subject to extension upon the mutual agreement of the parties.

During participation in the program, the government employees will take leave without pay; the private employees may either take leave without pay or resign from their companies subject to a contractual right of reemployment.

You have raised several questions relating to potential Federal income tax problems which may arise from participation in the program. You ask:

(1) whether government service by a private employee will constitute a break in employment for purposes of stock options previously granted;

(2) whether a private employee may continue to participate in his private employer's pension, profit-sharing or other benefit plan while in government service, assuming nondiscriminatory terms of participation and return to the private employer's service at the end of participation in the program;

(3) whether any special tax problems will arise by reason of the government employees' participation in government benefit plans while on leave without pay; and

(4) whether any special tax problems will arise if the moving expenses of the government and private participants are reimbursed.

I. Effect of government service on stock options previously granted

Sections 422(a)(2) and 423(a)(2) of the Internal Revenue Code of 1954, which refer to qualified stock options and employee stock purchase plans, require the optionee to be in the employ of the corporation granting the option at all times during the period beginning with the date of grant and ending on the date of exercise, or, in case the employment has been terminated, on the day 3 months before the date of exercise. In the case of a restricted stock option granted after February 26, 1945, and before January 1, 1964, section 424(a)(2) of the Code requires the optionee to be in the employ of the granting corporation at the date of exercise unless he ceased to be an employee within the 3-month period preceding date of exercise.

For purposes of determining employment relationship, sections 1.422-1(a)(1)(ii), 1.423-1(b) and 1.424-1(a)(2) of the Income Tax Regulations refer to section 1.421-7(h) of the regulations.

Section 1.421-7(h)(2) of the regulations states that the employment relationship will be treated as continuing intact during military or sick leave not in excess of 90 days, or, if longer, so long as the individual's right to reemployment is guaranteed by statute or contract.

Although section 1.421-7(h)(2) of the regulations states that the continuity of the employment relationship will not be interrupted by military or sick leave, this reference does not preclude a short-term period of government service under a program such as outlined above. This interpretation of the regulations is consistent with Rev. Rul. 59-140, C. B. 1959-1, 92, which refers primarily to military leave but also refers to other bona fide leaves of absence.

Based on the preceding discussion, temporary government service will not affect the continuity of the employment relationship of participants from private business for purposes of options granted prior to participation in the exchange program. It should be noted that government service does preclude the application of the statutory stock option provisions to options granted while the private business participant is in government service. See section 1.421-7(h)(1) of the regulations and Rev. Rul. 59-140, supra.

II. Effect of government service on pension, profit-sharing or other employee benefit plans

A. Pension and Profit-Sharing Plans

Section 401(a) of the Code applies only to a plan for the exclusive benefit of employees or their beneficiaries. Section 1.401-1(b)(4) of the regulations states, *inter alia*, that a plan is for the exclusive benefit of employees even though it may cover employees who are temporarily on leave, as, for example, in the Armed Forces of the United States.

The cited section of the regulations is considered to encompass a leave of absence for government service. Therefore, continued participation in the private employer's pension plan will not be affected by government service under the interchange program. With respect to profit-sharing plans, participation in the plan does not necessarily include participation in employer contributions during the employee's leave of absence since the formula used for allocating contributions among the participants is generally based, at least in part, on the employee's compensation.

In the case of both pension and profit-sharing plans, it will be necessary for the plans to permit continued participation by all employees under similar circumstances. See Rev. Rul. 65-178, Part 4(f), C. B. 1965-2, 94, 113.

B. Group-Term Life Insurance

Section 79 of the Code provides special rules for group-term life insurance purchased for employees. Section 1.79-1(b)(2)(i) of the regulations refers to section 3401(c) of the Code and the regulations thereunder for the definition of employee.

In general, section 31.3401(c)-1 of the Employment Tax Regulations states that a relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services.

During the period of government service, the participant from private business is not an employee of the private business within the meaning of section 31.3401(c)-1 of the regulations and, therefore, is not entitled to the exclusion provided by section 79 of the Code.

C. Accident and Health Plans

Sections 105 and 106 of the Code relate to employee accident and health plans. The regulations under these sections, unlike section 1.79-1(b)(2)(i) of the regulations, do not refer to section 3401(c) of the Code. Nothing appears in sections 105 and 106 of the Code and the applicable regulations which would preclude the continued participation in an accident and health plan by an employee on leave of absence. See also Rev. Rul. 62-199, C. B. 1962-2, 38, which allows retired employees to continue participation in such a plan.

III. Participation by government employees in government benefit plans while on leave without pay

Based upon the information provided, we do not anticipate any special tax problems arising by reason of continued participation by the government employees in the government benefit plans while in private service.

IV. Reimbursed Moving Expenses

To the extent that the moving expenses are of the type which would be deductible by the employees under section 217 of the Code, we anticipate no special tax problems arising from the reimbursement of such expenses. The employee who takes a deduction under section 217, of course, would have to include the reimbursement in gross income.

As you know, this opinion must of necessity be limited to the specific facts described in your letter. If we may be of any further assistance, please let me know.

Sincerely,



Commissioner

Department of Justice
Washington

January 12, 1968

The Honorable Sheldon S. Cohen
Commissioner
Internal Revenue Service
Washington, D. C.

Dear Mr. Cohen:

As you know, the Administration, in cooperation with leaders of the business community, is developing a mid-career personnel interchange program between the federal government and business. We anticipate that under this program outstanding young employees in business will be selected for two-year appointments to positions at an operational level in federal agencies, while outstanding young employees in government will receive similar appointments in private businesses. In some instances the period of appointment may be extended for a third or even fourth year upon mutual agreement by the company, the government and the individual, but the usual period of appointment would be for two years or less.

During the first year, we expect that approximately twenty corporate employees will be selected to serve in federal agencies. About the same number of federal government employees, mostly at the GS-15 level, will be selected to serve in private enterprise. Those from the private sector will probably be employees of domestic corporations at the lower or middle management levels and will receive federal appointments at the GS-15 level. Each appointment will be carefully screened to avoid conflicts of interest.

A federal government employee will probably take leave without pay for the period of his employment by the corporation. Private employees may either take leave without pay,

or resign from their companies with a contractual right to be reemployed at the conclusion of their temporary federal service under the program.

Questions have been raised as to whether participants coming from private business to government would be required as a result of their temporary government service to sacrifice (1) restricted or qualified stock options which have already been granted to them by their employers, (2) continued participation in qualified pension or profit sharing and similar employee benefit plans, or (3) continued eligibility for group life, health or accident plans.

These questions require consideration of both the conflict of interest laws and the tax laws. With respect to the former, this Office has given the advice outlined below concerning the prospective effect of 18 U.S.C. sections 208 and 209 on participants in this program.

As I mentioned earlier, each appointment is to be carefully screened to avoid any conflict of interest which would raise a question under section 208, which deals with acting in a governmental capacity on matters in which the employee has a financial interest. If a conflict nevertheless arises, the employee can disqualify himself, or obtain a waiver from the head of the agency where appropriate under section 208(b).

Under section 209(a), which relates to sources of compensation rather than to actual or apparent conflicts, the appointees cannot receive compensation for their services as employees of the United States from any source except the Government of the United States. Section 209(b), however, provides that this provision does not prevent an employee "from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus or other employee welfare or benefit plan maintained by the former employer."

A review of the history of section 209 and commentaries discussing it persuades us that from a legal standpoint, and without considering matters of appearances, there is no distinction for the purposes of this provision between a leave of absence and a resignation with a right of reemployment. In either case, we believe that appointees coming to the government under this program on a temporary basis may continue to participate in regular employee benefit plans maintained by their former employers. Indeed, we have been informed that this is one of the very kinds of government service for which section 209(b) was designed.

We have also considered the applicability of the conflict of interest laws to stock options granted to the employee before he comes to the government as a participant in this program. From this standpoint, we see no substantive distinction between the ownership of stock in a corporation and the holding of a previously granted option to purchase such stock. If the employee's assignment is such that his retention of stock ownership does not create a conflict of interest, we see no reason to believe that his holding or exercise of a previously granted stock option would do so. Conversely, if he should dispose of the stock upon entering government service because of actual or potential conflicts of interest, he should also dispose of the option.

Of course, a completely different question would be raised by the granting to an employee of additional stock options, or of any special benefits, either during or with a view to his employment by the government under this program. Such an additional grant might in fact be compensation for his services as an employee of the United States. By the same token, the former employer would not be permitted to pay to the employee a supplementation of his government salary, such as a payment based on the difference between his government compensation and the compensation which he would have received if he had continued to work for the employer.

Even when conflict of interest considerations have been resolved satisfactorily, there remain certain tax points on which our preliminary discussions indicate that participants from private business and their employers need reassurances. Basically, they want to know:

(1) whether government service by a private employee will constitute a break in employment for purposes of stock options previously granted;

(2) whether a private employee may continue to participate in his private employer's pension, profit-sharing or other benefit plan while in government service, assuming non-discriminatory terms of participation, and return to the private employer's service at the end of participation in the program;

(3) whether any special tax problems will arise by reason of the government employees' participation in government benefit plans while on leave without pay; and

(4) whether any special tax problems will arise if the moving expenses of the government and private participants are reimbursed.

These points involve several provisions of the Internal Revenue Code and regulations. I recognize, of course, that you cannot be expected to give any binding ruling as to the qualification or tax effects of a particular benefit plan or stock option until it has been examined. Meanwhile, however, it is important that those who are developing this interchange program be able to inform prospective participants and their employers of your views on the above four questions.

Sincerely,

Frank M. Wozencraft
Assistant Attorney General
Office of Legal Counsel

RN
12/8

File

- Kissinger - RN talk before Shriver

Harlow - Ehr - I = reannmt.

invite W. Horn staff - but in back

1:00 give them a feel of what went thru

Weds. noon - inform staff of Cabinet annmt

call them in - Rose etc. - ^{separate} none before

Ells - B - P - G - Sh - close group - hi level

finance group - Stans - start at noon

call top contacts -

~~Bobet~~ - Kindell - Stone - etc.

use Flanigan to help calling

B. Litchfield, Clay - etc.

personal - Rose, Landell, Hobe, Bobet,

Mitchell call Bebe, Rockefeller,

Scantion if he's back

Kappel, Dewey (Brownell call if ^{had in Fla})

Governors - & Agnew - Ellsworth help

Agnew come up Tues - RN tell him ^{Weds AM}

that stay here thru Weds & ^{return}

flydown w/ RN - bring Mrs.

Mon: AM + Arends + Mundt

C - RN call Ford + Diksey - set up Harlow call

for ~~later~~ later today

also Tower + Thurmond - to set up M

Cab. annmt

our friend

2/

major publishers - Klein

make a list - those w/ us

Trib, Copley, Otis - not Aurenberg -
chat w/ them after noon

Vail, Pres Wolf, Martin Hayden

Jack ~~Wright~~, Newhouse, Jim Stahl

Guzyanhai, Scripps / Howard

party people -

only for their own state - not whole Bund
& only after Sen + Congm.

have to get a Texan + Floridian in room
- also Ohio

- RN call NR noon / Mon on Eric Porton

Cal. Comm. Procedure

- not direct to Pres.

Fla. - no press briefings - no news.

23-30th = Hughes there -

Ⓞ

call lead astronaut before shoot on 21st

+ go to debriefing of deBridge & LBT not there

let Y.L. + Whitten both - but not on campus
- track down Jan 9th - plans

wants staff mtg - early point
esp. to handle Rose
understand 1st -

anything personal from anyone to R
pds - rels - contacts - etc.
whoever they write -

if de govt. matter - it goes
to pass in chg - not to RV

don't want to see ltrs for good pds
until staffed out.

no requests on sched direct to RV
except strictly personal

Ells - has to be programmed do not in directly
all foreign thru Kissinger, Longmuir, Kulas

Bryce has to speak up re Rose -

cauld re Ann - people went around.

make it clear that nothing kept from RV

but must go in in right way - three channels

Staff
mtg

Price B-Rose etc. to P. Springs

Call Keyes - not to call tel 5:00 on time

RV. F
via F
& Ch
12/15
by phone
at apt. Whitaker -

file

(F)

Whitaker -
Cab Secy - + in part help Harlow

Univ. NY financial comm. -
to present Kennedy

big birthday party 9/11 - in NY

Wilkinson - WH - superglad handler

announcements - here or out - how program

bring in Cab. offices tomorrow -
leg. lds.

8:45

sequence of announcements -

(Harlow)

Schulz + McLann + DDE -

desig. Schulz as something -

re N. liaison w/ retired Pres.

have to work out details - they have a study

Jan 4 - RN to Dirksen birthday party in DC Va.
doing this to weld Dirksen in

(Eh) Wilkinson - Asst to Pres.

Whitaker - track cabinet - comb - subcom +
invld agencies
now back to Cab + my staff.

handle V/P's - look after Youst + Cullman etc -
travel around spy
some press
social companion - go to football games
staff too professional -

re Ellsworth -

E said shld can him now -
talked it thru -

old say
problem will get worse

Jay Wilkinson - to HEW - Final

RN

12/13

File

Ke do some bkgrd re RN planning Cab
RN's idea - stop objects

idea of women present - complete surprise

I not going to announce UNTues - probly Weds
need more time

OK on Hoover Helms Let

hold VA til Bryce clears

Agnew - be contact w/ LBJ - about once a month

Cab
plan

Cabinet - see Johnson - courtesy calls - esp. J.M.

- all except Laird + Rogers

on yr. own call all vupt. people + interest groups
you know in your field -

talk to them a bit

+ tack to newsmen that would be favorable

they have an vupt. P.R. job of their own.
I see Longm.

Have to find way to program Ag + Int

Bryce have someone put Ag

in touch w/ long etc -

he shld call on them

have Ellis help out -

get them interest + their long
"input on their jobs.

Ag - Farm Bureau, Change, Farm Union

Ke
guide them

Ellis?

always
think
Bryce

Ritzel - when RN gives library etc
can it be deducted

talk to LBJ Librarian -
he keeps orig. papers of all cab. officers.
look into how it's done
then talk to cabinet - set it up.

V/KL Ollie Atkins - go ahead on photog. -

USA - Lawrence Knott head - J says good
Hulow ck it out for Bliss
Quirkson has a candidate - demands
maybe Fred Turnell

Attain Paul Cullen - Sec Army - Dem for RN

Han Whitaker to Hulow