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Audit of Ford-Carter Presidential Transition Expenditures. GGD-78-36; B-149372; B-158195. December 23, 1977. Released December 29, 1977. 41 pp. + 4 appendices (17 pp.).

Report to Rep. Jack Brooks, Chairman, House Committee on Government Operations; by Elmer B. Staats, Comptroller General.

Contact: General Government Div.
Budget Function: General Government: Executive Direction and Management (802).
Organization Concerned: General Services Administration.
Congressional Relevance: House Committee on Government Operations. Rep. Jack Brooks.
Authority: Presidential Transition Act of 1963 (3 U.S.C. 102). Former Presidents Act of 1958. Civil Service Retirement Act. Federal Employees Compensation Act. Federal Employees Group Life Insurance Act of 1954. Federal Employees Health Benefits Act of 1959. P.L. 94-499. P.L. 94-363. P.L. 94-438. P.L. 95-550. 40 U.S.C. 490.

The Presidential Transition Act of 1963 authorized the appropriation of $900,000 for each Presidential transition and authorized the use of Government employees on a reimbursable or nonreimbursable basis. October 1976 amendments to the act authorized the appropriation of up to $2 million for the incoming administration and up to $1 million for the outgoing administration. The amendments also deleted the authority to provide Government employees on a nonreimbursable basis. The Gerald Ford-Jimmy Carter transition was the first to test the workability of financing a transition entirely with Presidential Transition Act funds. Findings/Conclusions: As of August 31, 1977, about $1.7 million of the $2 million appropriated for the incoming Carter administration had been obligated, leaving an unobligated balance of about $300,000. At the same time, about $635,000 of the $1 million appropriated for the outgoing Ford administration had been obligated, leaving an unobligated balance of $365,000. Most of the problems encountered by the incoming administration involved use of a checking account in a private bank under control of the Carter/Mondale transition staff. It was more than 4 months after the end of the transition period before the records pertaining to this account were released. False authorizations were used to obtain cash advances of about $18,000 for 69 individuals; this subterfuge was used because the General Services Administration payroll system was not fast enough to accommodate the needs of some staff members for salary payments. A longer presidential transition period provided President Ford with several advantages not available to former Presidents. Recommendations: The Congress should amend the Presidential Transition Act to: delete provisions dealing with outgoing administrations, add provisions dealing with military and chartered aircraft, and include approval of

expenditures by General Services Administration. All services provided to former Presidents should be covered in the Former Presidents Act. The Congress should amend the Former Presidents Act to: remove restrictions concerning total salaries and travel, clarify other provisions, and make provisions for the services to be furnished a former Vice President. (RRS)

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RELEASED 12/29/77

REPORT TO THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Audit Of Ford-Carter Presidential Transition Expenditures

The Ford-Carter transition was the first to test the workability of financing a transition entirely with Presidential Transition Act funds. Overall, the concept worked well but some mistakes were made and problems encountered in administering the funds provided. Future administrations can profit from the lessons learned.

Changes to the Presidential Transition Act and the Former Presidents Act would avoid recurrence of some problems and would improve the administration of these laws principally by

- --placing responsibility for transition expenditures solely with the Administrator, General Services Administration and
- --providing all services to an outgoing administration through the Former Presidents Act.

GGD-78-36

DECEMBER 23, 1977

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-149372
B-158195

DEC 2 8 1977

The Honorable Jack Brooks, Chairman
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This is in response to your letter of April 30, 1977, requesting us to audit the expenditure of funds appropriated for the Ford-Carter Presidential transition.

We believe that this transition demonstrated that a change in executive power financed entirely by Federal funds appropriated specifically for that purpose is a viable concept. Some problems were encountered and mistakes made in administering the funds for both the incoming and outgoing administrations. We believe future administrations can profit from the lessons learned and we have recommended changes in the Presidential Transition Act and the Former Presidents Act to avoid some of the problems encountered.

A draft of this report was provided to the General Services Administration and others for comment on November 3, 1977. Comments had not been received from the General Services Administration at the time this report was finalized.

No further distribution of this report will be made before 30 days unless you publicly announce its contents earlier.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT
TO THE COMMITTEE ON GOVERNMENT
OPERATIONS
HOUSE OF REPRESENTATIVES

AUDIT OF FORD-CARTER PRESIDENTIAL TRANSITION EXPENDITURES

D I G E S T

The Chairman of the House Government Operations Committee asked GAO to audit the expenditure of funds appropriated to carry out the Ford-Carter presidential transition.

The Presidential Transition Act of 1963 authorized the appropriation of not to exceed $900,000 for each Presidential Transition. It also authorized the use of Government employees on a reimbursable or nonreimbursable basis.

Presidential Transition Act funds were made available for the first time in 1964 when $72,000 was provided to the newly elected Vice President.

The first use of Transition Act funds for both incoming and outgoing administrations was in 1968-69 when $450,000 was made available to each. In addition to the $450,000 in Transition Act funds, about $1 million in private funds were used by the incoming Nixon administration during the transition period. The outgoing Johnson administration in 1968-9 and former President Nixon in 1974-5 had, in addition to the Presidential Transition Act funds, the assistance of employees provided by Government agencies on a nonreimbursable basis.

The October 1976 amendments to the Presidential Transition Act authorized the appropriation of not to exceed $2 million for the incoming administration and not to exceed $1 million for the outgoing administration. The amendments also deleted the authority to provide Government employees on a nonreimbursable basis.

The Ford-Carter transition was the first to test the workability of financing a transition entirely with Presidential Transition Act funds. Overall, the Ford-Carter transition proved that this concept is sound.

Some mistakes were made and problems encountered in administering the funds provided. GAO believes that future administrations can profit from these mistakes and has recommended some changes in the law to avoid some of the problems.

STATUS OF APPROPRIATION

As of August 31, 1977, about $1.7 million of the $2 million appropriated for the incoming Carter administration had been obligated leaving an unobligated balance of about $300,000. GAO has determined that some additional amounts for the use of military aircraft and the payment of employment taxes should be charged to the appropriation (see p. 26 and p. 20) which will reduce the unobligated balance.

As of August 31, 1977, of the $1 million appropriated for the outgoing Ford administration about $635,000 had been obligated leaving an unobligated balance of about $365,000. GAO has determined that an additional amount for the use of military aircraft should be paid from this appropriation which will reduce the unobligated balance. (See p. 26)

PROBLEMS OF THE INCOMING ADMINISTRATION

Checking account in private bank

Most of the problems encountered by the incoming administration involved the use of a checking account in a private bank under the control of the Carter/Mondale transition staff. About $330,000 in transition expenditures were made from this account. About $252,000 of this amount was advanced by GSA to the transition staff for various purposes. Most of the balance came from collections from the press and the Secret Service for the use of space on chartered flights.

The expenditures from this account were not reviewed by GSA prior to payment and it was more than 4 months after the end of the transition period before the records pertaining to the checking account were turned over by the transition staff to GSA. The use of this account resulted in several problems which could have been avoided.

--Collections from the press and Secret Service amounting to about $87,000 were deposited in the checking account and used for transition expenses. Under existing laws these collections should have been deposited as miscellaneous receipts in the General Fund of the Treasury. (See p. 16) GAO believes the law should be amended to provide for the use of such collections for transition purposes in the future.

--Federal law does not authorize the payment of salary before it is earned and the agreement between GSA and the transition staff outlined the procedures for placing individuals on the transition payroll. These procedures were not followed for payments of $10,850 to 18 people from the checking account which were classified as salary advances. One advance was made to a person who never was put on the transition payroll. The other individuals who received advances had worked long enough to have earned all or part of the advance at the time it was made. Most advances were made before the employees received their first paychecks, but a few were made afterwards. All of the advances were repaid but some were not repaid for several months; the last repayment was made in May 1977. (See p. 17) Some of the short-term cash needs of these people could have been met with travel advances.

--Lump sum per diem payments of $500 each were made to about 130 staff members who worked in Washington, D.C., but whose residences or places of business were elsewhere. The transition staff did not follow Government regulations concerning employee entitlement to per diem payments. (See p. 18) Based on the length of time the employees were on the transition payroll it appears that most could have received larger per diem amounts had the incoming administration chosen to authorize per diem for each day they were in Washington, D.C.

--Questionable payments were made for such items as a staff Christmas party, a dinner for the press, and repair of an employee's car damaged while he was on transition business. The costs of the Christmas party were refunded. (See p. 20)

--Payments of about $87,000 were made for casual labor that provided services such as handling the mail and courier services. No income or social security taxes were withheld from the wages of these employees. The required social security tax returns were not filed nor were the required taxes paid. (See p. 20)

Salary advances made from a cash imprest fund

False authorizations for travel to Annapolis, Maryland, were used to obtain cash advances of about $18,000 for 59 individuals. GAO was told by a member of the transition staff that the subterfuge of travel advances was used because the GSA payroll system was not fast enough to accommodate the needs of some transition staff members for salary payments.

GAO found that GSA expedited the first payroll and some subsequent ones for the transition staff. The principal hold up in salary payments was the transition staff's delay in providing GSA with necessary payroll data.

The advances for the purported trips to Annapolis were made by a GSA cashier from a cash imprest fund maintained at one of the transition offices. GAO obtained contradictory stories as to who suggested the use of the imprest fund to obtain the salary advances. A transition staff member maintains that the GSA transition liaison suggested it; he denies that he did.

Most of the advances were made to transition staff members after they had worked for a period of time but before they received their first paychecks. A few advances were made after employees started receiving regular paychecks. All advances have been repaid. Most repayments were made about 1 month after the employees received their first paychecks; a few were not repaid until 3 or 4 months afterwards.

Six advances, subsequently repaid, were paid to individuals who never were put on the transition payroll. (See p. 21)

PROBLEMS OF THE OUTGOING ADMINISTRATION

Period of availability of funds

The Transition Act provides that services will be provided to a former President for a period of 6 months after he leaves office. However, the appropriation act providing the additional $2.1 million authorized by the 1976 amendments to the authorizing act stated that the funds would be available through September 30, 1977. On the basis of a 1969 GAO decision, GSA advised the former President's staff that the language in the appropriation act would prevail. The longer period of availability provided former President Ford, as it had former President Johnson, with several advantages not available under the Former Presidents Act such as the authority to retain a larger staff, use office space in more than one location, and the authority to pay for the travel of more staff members. (See p. 25)

USE OF MILITARY AIRCRAFT BY BOTH INCOMING AND OUTGOING ADMINISTRATIONS

Military aircraft under the control of the White House Office were provided to both administrations. Part of the cost of the flights provided the former President were charged to the Secret Service but the bulk of the costs were absorbed by the Air Force.

There is no authority in the Presidential Transition Act for a Government agency to incur expenditures to provide services on a nonreimbursable basis. GAO has therefore advised the White House Office that any costs not reimbursed should be billed to (1) the Secret Service for the space it occupied on flights used by the President-elect or Vice President-elect and their families and (2) GSA for payment of the rest of the costs from Transition Act funds. (See p. 26)

Recommendations to the Congress

GAO believes that some of the problems encountered during the Ford-Carter transition could be minimized in the future by changes in the authorizing legislation. To this end, GAO is making several new recommendations and repeating recommendations in its December 1975 report on presidential transitions which were not included in the 1976 amendments to the Transition Act. (See p. 31)

If the recommendations are adopted

- --the Presidential Transition Act would apply only to the incoming administration,
- --expenditure of transition funds would have to be approved in advance by the Administrator of General Services, except for minor cash expenses, and

--the use of military aircraft on a reimbursable basis for transition purposes would be authorized and collections from the press and others for trips on chartered flights would be available for use in the transition.

All services available to the outgoing administration would be provided under the Former Presidents Act.

--Funds would be available to the former President and Vice President from the time they leave office through the remainder of the fiscal year--a period of 8 months and 10 days--thereafter funds would only be available to the former President.

--The President would be required by law to include in the budget request for the fiscal year in which his regular term of office expires sufficient funds to pay for the benefits and services authorized for him and the Vice President by the Former Presidents Act. This requirement would overcome the natural reluctance of a President seeking reelection to request funds which would only become available if he were defeated.

--Expenditures would have to be approved in advance by the Administrator of General Services, except for minor cash expenses.

AGENCY COMMENTS

The Carter/Mondale transition director (see app. III) agreed with most of GAO's recommendations. He disagreed, however, with GAO's recommendation that the Transition Act be amended to require that all obligations and expenditures be approved by the Administrator of General Services, except for minor cash expenses. He suggested instead that the law be amended to make the President-elect's designee solely responsible for the use of transition funds by the incoming administration. He also suggested that the act be amended to provide funds for a small staff to wind up transition matters after the Presidential inaugural.

A Ford transition staff official agreed with all of GAO's recommendations. (See app. IV) He suggested one additional amendment whereby obligations could be incurred prior to the time a President leaves office so that certain necessary facilities would be available on the day he leaves office.

C o n t e n t s

ABBREVIATIONS

GAO	General Accounting Office
GSA	General Services Administration

CHAPTER 1

INTRODUCTION

The Chairman, House Committee on Government Operations, requested that we audit the expenditure of funds appropriated by Congress for the Ford-Carter Presidential transition and provide a report on both the incoming and outgoing administrations describing the purposes for which funds were used and the manner in which they were administered; identifying any transition problems; and commenting on the adequacy of the basic legislation under which transitions are carried out. (See app. I)

PRESIDENTIAL TRANSITION ACT OF 1963

The purpose of the Presidential Transition Act of 1963 (3 U.S.C. 102(note) approved March 7, 1964) is to promote the orderly transfer of executive power in connection with the expiration of the term of office of a President and the inauguration of a new President.

The Presidential Transition Act of 1963 authorized the appropriation of not to exceed $900,000 for each Presidential Transition. It also authorized the use of Government employees on a reimbursable or nonreimbursable basis.

Presidential Transition Act funds were made available for the first time in 1964 when $72,000 was provided to the newly elected Vice President. The first use of Transition Act funds for both an incoming and outgoing administration was in 1968-9 when $450,000 was made available to each. In addition to the $450,000 in Transition Act funds, about $1 million in private funds were used by the incoming Nixon administration during the transition period. The outgoing Johnson administration in 1968-9 and former President Nixon in 1974-5 had, in addition to the Presidential Transition Act funds, the assistance of employees provided by Government agencies on a nonreimbursable basis.

Public Law 94-499 approved October 14, 1976, amended the Transition Act by:

--Increasing the maximum amount authorized to be appropriated for one transition from $900,000 to $3,000,000. It authorized the appropriation of not to exceed $2 million for services and facilities to be provided to the President-elect and Vice President-elect and $1,000,000 for services and facilities to be provided to the former President and former Vice President.

--Deleting the authority to detail Government employees to either the incoming or outgoing administrations on a nonreimbursable basis.

--Deleting the $100 per diem limitation for experts and consultants.

The maximum amount authorized, $3 million, was appropriated to carry out the Ford-Carter transition. Public Law 94-363 approved on July 14, 1976, appropriated $900,000 and Public Law 94-438 approved on September 30, 1976, provided the additional $2.1 million.

The Ford-Carter transition was the first to test the workability of financing a transition entirely with Presidential Transition Act funds.

The act authorizes the Administrator of General Services to provide each President-elect and Vice President-elect the necessary services and facilities for their preparations for the assumption of official duties. The President-elect and Vice President-elect may designate an assistant to make on their behalf such designations or findings of necessity in connection with services and facilities provided under the act. The authorized services and facilities include:

--Suitable office space appropriately equipped with furniture, furnishings, office machines and equipment, and office supplies at such place or places within the United States as the President-elect or Vice President-elect shall designate.

--Compensation of office staffs at rates not to exceed GS-18. Any employee of any agency of any branch of Government may be detailed to such staffs on a reimbursable basis at the same rate of compensation as his regular employment.

--Procurement of services of experts or consultants.

--Travel expenses and subsistence allowances.

--Communications services.

--Printing and binding.

--Postage.

The Administrator may use Transition Act funds only to pay obligations incurred by the President-elect and Vice President-elect from the day following the general election to the day of inauguration.

The Transition Act also authorizes the Administrator to provide each former President and former Vice President, for a period not to exceed 6 months from the expiration of their terms of office, the same services and facilities provided to the President-elect and Vice President-elect for use in winding up the affairs of their respective offices.

SCOPE OF REVIEW

We examined the authorizing legislation pertaining to assistance provided to the incoming and outgoing administrations under the Presidential Transition Act and reviewed the obligation and expenditure of funds provided to assist President-elect Carter, Vice President-elect Mondale, former President Ford, and former Vice President Rockefeller. Our work included discussions with General Services Administration (GSA) officials responsible for administering the expenditure of funds appropriated to carry out the act and officials of the incoming and outgoing transition staffs.

CHAPTER 2

HOW FORD-CARTER

TRANSITION ACT FUNDS WERE SPENT

Of the $1 million appropriated for the services and facilities to be provided to former President Ford and former Vice President Rockefeller, the former President was allocated $905,000 and the former Vice President $95,000. The $2 million appropriated to the incoming administration was not divided between the President-elect and Vice President-elect.

The status of the funds as of August 31, 1977, the purposes for which expenditures were made by the incoming and outgoing administrations, and the procedures used to administer these funds are discussed in the following sections.

CARTER/MONDALE TRANSITION

On November 15, 1976, GSA and the Carter/Mondale Transition Planning Group entered into an agreement setting forth in a fair amount of detail the procedures for obtaining the services made available under the provisions of the Transition Act. Mr. Jack H. Watson, Jr. was designated as the President-elect's representative for the transition and Mr. G. C. Gardner was designated as GSA's liaison to the transition staff. Mr. Walter Kallaur was appointed Carter/Mondale Transition Administrator and was authorized by Mr. Watson to approve payments of transition funds. An additional agreement between GSA and the transition staff on telephone services was signed on November 17, 1976.

The transition period for the incoming administration began on November 3, 1976, and ended on January 20, 1977. GSA records show that as of August 31, 1977, the funds obligated for Carter/Mondale were as follows:

Funds available	$2,000,000
Funds obligated -	
Salaries and wages	946,248
Personnel benefits	67,578
Travel and transportation	360,339
Telephone and telegraph	106,460
Office space	48,526
Rental of office equipment and furniture	45,175
Commercial services	52,229
Supplies and miscellaneous expenses	26,724
Postage	25,035
Printing	14,456
Services rendered by other Government agencies	9,355
Total obligated	1,702,125(a)
Unobligated balance	$ 297,875(b)

Note (a) - We increased expenditures recorded by GSA by $86,491 collected for the use of chartered aircraft and spent for transition purposes and decreased expenditures by $1,516 for a refund of transition funds spent on a staff party. (See pp. 16 and 20).

(b) - This balance will be reduced by payments for the use of military aircraft and employment taxes not previously paid on employees' wages. The exact amounts had not been determined as of October 15, 1977.

The following is a brief description of the purposes for which the appropriated funds were used.

<u>Salaries and wages $946,248</u>

Salaries totaling $847,974 were paid to a total of 312 staff employees who worked for varying periods during the transition. During the first week of the transition period, 97 employees were hired and 95 more were hired during the second week. At the end of the transition period, 301 individuals were on the payroll. In addition, four employees were detailed from other Government agencies on a reimbursable basis at a cost of $11,180.

The Transition Planning Group also hired several hundred employees which it classified as casual laborers who generally worked for short periods. Most of these employees provided courier service and processed large quantities of mail received after the election and were paid a total of $87,095.

Personnel benefits $67,578

The Planning Group's employer share of personnel benefits includes costs for health services, life insurance premiums, social security taxes, and contributions to the civil service retirement fund. Personnel benefits were not paid on the wages of casual laborers.

Section 3(a) of the Presidential Transition Act of 1963 provides that notwithstanding any other law, persons receiving compensation other than those detailed from Government agencies shall not be held or considered to be employees of the Federal Government except for purposes of the Civil Service Retirement Act, the Federal Employees Compensation Act, the Federal Employees Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959. We were told by the transition staff that employees were given the choice of being covered by the retirement and other benefits cited in the act or by social security. No deductions of any kind including social security or income taxes were made from the wages of casual laborers.

Travel and transportation $360,339

Expenses were incurred for travel, including airfare; per diem and taxi fares; chartered aircraft and buses; car rentals; and freight charges. Lump-sum per diem payments of $500 each were made to employees who lived outside of the metropolitan Washington, D.C., area and began working in Washington, D.C., after the election of the President and Vice President. (See discussion on p. 18) Military aircraft were also used but the cost of providing such aircraft was not charged to the Transition Act funds. (See discussion on p. 26)

Telephone and telegraph $106,460

The telephone agreement between the Planning Group and GSA provided that charges would be made for a one-time installation of about 250 lines in the New Executive Office Building and the HEW North Building, continuing local service, long distance calls made over commercial lines or the Government's Federal Telecommunication System, and three telecopying machines.

Office space $48,526

Office space, furniture, and office equipment were furnished at no cost for the principal transition offices located on part of the third floor of the New Executive Office Building, Washington, D.C., NW.; part of the fifth floor of the HEW North Building, Washington, D.C., SW.; and in the Federal Building located in Americus, Georgia. Offices at 716 Jackson Place, NW. and 730 Jackson Place, NW., Washington, D.C., were also used occasionally. GSA charged the Planning Group for guard services, moving expenses, and miscellaneous construction which was designed primarily to improve security in the New Executive Office Building and the HEW North Building in Washington, D.C. The Planning Group also incurred costs for the rental of mobile offices used in Plains, Georgia. Space in a motel in Americus, Georgia, was rented for a few weeks at the beginning of the transition period and was used both for office space and living quarters by the Planning Group. The total costs of the motel rentals are included in travel and transportation expenses.

Rental of office equipment and furniture $45,175

Office equipment and furnishings needed by the Planning Group in addition to those items supplied by GSA without charge were rented from commercial suppliers. For example, an automatic data processing computer terminal was leased.

Commercial services $52,229

The services included in this category were for the cost of professional accounting services, a press clipping service, some temporary labor, automatic data processing consultation, services to a small business liaison team, and catering service at a foreign policy briefing.

Supplies and miscellaneous expenses $26,724

This expenditure consisted principally of office supplies purchased from GSA self-service stores and commercial suppliers, subscriptions to newspapers and a technical publication.

Postage $25,035

This expense consisted of rental of a post office box, purchase of postage stamps, postage for a postage meter, and the cost of penalty mail billed to the Planning Group by the Postal Service on the basis of estimated usage.

Printing $14,456

Printing costs consisted primarily of printing of letterhead stationery, envelopes, and cards.

Services rendered by other Government agencies $9,355

The Department of State billed the Planning Group for expenses in connection with President-elect and Mrs. Carter's stay in Blair House. The Smithsonian Institution charged the Planning Group for services rendered in connection with a foreign policy conference.

FORD TRANSITION

On December 13, 1976, GSA and the Ford Transition Office entered into an agreement effective January 21, 1977, setting forth the procedures for obtaining the services available for use in winding up the affairs of the former President. Additional agreements relating to payroll and telephone services were entered into on December 13, 1976, and January 5, 1977, respectively.

The former President designated three individuals to act in his behalf in connection with the services and facilities provided under the act.

The amount obligated by the Ford Transition Office as of August 31, 1977, totalled $583,815 as shown in the following tabulation.

Funds available	$905,000
Funds obligated -	
Salaries and wages	307,231
Personnel benefits	26,219
Travel and transportation	94,095
Telephone and telegraph	33,840
Office space, furniture, and equipment	71,261
Supplies and expenses	11,748
Printing	31,736
Postage	2,820
Commercial services	4,865
Total obligated	583,815
Unobligated balance	$321,185(a)

Note (a) - This balance will be reduced by a payment for the use of military aircraft (see p. 26) and additional obligations incurred through September 30, 1977.

The following sections contain brief descriptions of the purposes for which the Transition Office used appropriated funds.

Salaries and wages $307,231

Salaries and wages totaling $295,705 were paid for varying periods to 27 employees and $11,526 was paid for four individuals detailed from the Armed Services on a reimbursable basis to the staff of the former President. For the payroll period ending on August 27, 1977, 18 employees were on the Transition Office payroll.

Personnel benefits $26,219

Employees of a former President are not considered to be Government employees but are eligible for the retirement and insurance benefits available to Government employees. The Transition Office's share of personnel benefit costs includes payments for health services, life insurance premiums, social security taxes, and contributions to the retirement fund. Social Security taxes were paid for four employees; civil service retirement contributions were made for the other employees.

Travel and transportation $94,095

Expenses were incurred for airfare, per diem, and other travel expenses; moving expenses for transition materials; car rentals; and freight charges. Military aircraft were also made available to former President Ford but not charged to Transition Act funds. (See p. 26)

Telephone and telegraph $33,840

The telephone services agreement between the Transition Office and GSA provides that charges were to be made for a one-time installation of equipment and lines at the transition offices at 734 and 736 Jackson Place, NW., Washington, D.C.; continuing local service; and long distance calls made over commercial lines or the Federal Telecommunications System. Communications services were also provided for a temporary office in Vail, Colorado.

Office space, furniture, and equipment $71,261

Office space, furniture, and office equipment were provided at no cost by GSA to the Ford transition staff at three locations on Jackson Place, NW., in Washington, D.C. Rent was paid from transition funds for the rental of offices in Palm Springs, California, and for utilities, landscaping and swimming pool maintenance required by the rental lease. Transition funds were also used to rent temporary office space in Vail, Colorado. Some office equipment and furnishings were rented from commercial suppliers and some were purchased.

Supplies and miscellaneous expense $11,748

This expense consisted of office supplies purchased principally from GSA self-service stores, and subscriptions to newspapers, magazines, and a technical publication.

Printing $31,736

The amount expended consisted primarily of the cost of printing acknowledgment cards, letterhead stationery, and envelopes.

Postage $2,820

This expense consisted of the cost to rent a post office box, purchase postage stamps, stock a postage meter machine, and for penalty mail which was billed to the Transition Office by the Postal Service on an estimated use basis.

Commercial services $4,865

Services obtained included installation of office equipment, beeper communications, research for a speech by the former President, and janitorial services.

ROCKEFELLER TRANSITION

On December 22, 1976, an agreement was entered into between GSA and the Rockefeller Transition Office effective January 21, 1977, setting forth procedures for obtaining the services available for winding up the affairs of the former Vice President. Additional agreements relating to payroll and telephone services were also entered into on the same date.

The former Vice President designated two individuals to act on his behalf in connection with the services and facilities provided under the act.

The amount obligated by the Rockefeller Transition Office as of August 31, 1977, totalled $51,292 as shown below.

Funds available	$95,000
Funds obligated -	
Salaries and wages	39,425
Personnel benefits	2,544
Telephone and telegraph	3,103
Rental of equipment	2,741
Commercial services	1,035
Travel and transportation	915
Supplies and miscellaneous expenses	663
Printing	792
Postage	74
Total obligated	51,292
Unobligated balance	$43,708(a)

Note (a) - This balance may be reduced for additional obligations incurred through September 30, 1977.

The following sections contain brief descriptions of the purposes for which the Transition Office used appropriated funds.

Salaries and wages $39,425

Salaries and wages totaling $31,198 were paid to five employees who worked for various periods of time and $900 was paid to a consultant. Another Government agency was reimbursed $7,327 for the services of one employee detailed to the transition staff.

Personnel benefits $2,544

The Transition Office's share of personnel benefits includes payments for health services, life insurance premiums, social security taxes, and contributions to the retirement fund. Social security taxes were paid for three employees who worked short periods of time; civil service retirement contributions were made for the other employees.

Office space

Office space, furniture, and office equipment was provided at no cost by GSA at 730 Jackson Place, NW., Washington, D.C. The office was closed and the premises vacated in early June 1977.

Telephone and telegraph $3,103

The telephone services agreement between the Transition Office and GSA provided that charges would be made for a one-time installation of equipment and lines at 730 Jackson Place, NW., Washington, D.C.; continuing local service; and long distance calls made over commercial lines or the Government's Federal Telecommunications System.

Rental of equipment $2,741

Office equipment needed by the Transition Office in addition to the equipment furnished at no cost by GSA was rented from commercial suppliers.

Commercial services $1,035

Services obtained included primarily planning and decorating the Transition Office.

Travel and transportation $915

Expenses were incurred for airfare for several round-trips to New York, local taxi fares, air freight of printed matter, and delivery charges for office equipment.

Supplies and miscellaneous expenses $663

This expense consisted of office supplies purchased principally from GSA's self-service store and subscriptions to newspapers.

Printing $792

Costs included primarily printing of letterhead stationery and envelopes, and labels.

Postage $74

This expense consisted of the rental of a post office box and the purchase of postage stamps.

CHAPTER 3

PROBLEMS ENCOUNTERED IN

ADMINISTERING TRANSITION ACT FUNDS

The Ford-Carter transition demonstrated that a change in executive power financed entirely by funds appropriated under the Presidential Transition Act is a viable concept.

Some problems were encountered and mistakes made in administering the Transition Act funds for both the incoming and outgoing administrations. Future administrations can profit from the lessons learned and changes in the law will avoid some of the problems encountered.

The problems for the Carter/Mondale transition funds involved (1) the use of a checking account in a private bank under the control of the transition staff from which some questionable expenditures were made and not reviewed by GSA until long after the transition period had ended and (2) the use of false travel authorizations to obtain salary advances.

The problem involving the Ford transition funds was the use of the funds as authorized by the appropriation act until September 30, 1977, or about 2-1/3 months beyond the 6-month period provided by the transition act legislation.

An additional problem involving both the incoming and outgoing administrations was the use of military aircraft by the President-elect, Vice President-elect and their staffs and former President Ford without charge to Transition Act funds.

CHECKING ACCOUNT IN PRIVATE BANK

Most of the mistakes and problems in the use of transition funds by the incoming administration involved the use of a checking account in a private bank. Mr. Gardner for GSA and Mr. Watson for the Carter/Mondale staff signed an agreement on November 15, 1976, outlining the provisions of the Transition Act and the procedures to be used in paying the expenditures authorized by the act. On the same day, GSA approved the issuance of a U.S. Treasury check drawn on the Transition Act funds for $10,000 payable to the Carter/Mondale transition planning group for deposit in the Union First National Bank of Washington, D.C. On November 18, 1976, another U.S. Treasury check for $10,000 was issued for deposit in the same account. Accompanying each check was a GSA letter advising the planning group that the funds advanced for deposit in the checking account could only be spent in accordance with the provisions of the Transition Act.

During the balance of the transition period GSA advanced additional sums, eventually totaling about $252,000, to the Carter/Mondale staff for deposit in the checking account. Each advance was preceded by a request from the transition staff describing the purpose for which the requested funds would be used. With each advance GSA sent a letter reminding the transition staff that the funds could only be spent for authorized purposes and would have to be accounted for by the transition staff. The funds were requested for a variety of purposes with the largest amounts requested for chartering aircraft for the President-elect, the payment of wages to so-called "casual labor," and the payment of per diem to staff members working in Washington, D.C., whose homes were elsewhere.

The use of the checking account resulted in many problems in the use of transition funds which could have been avoided. GSA did not review the propriety of the expenditures from the checking account until more than 4 months after the end of the transition period when the transition staff turned over its checking account records to GSA. GSA maintained a hands-off attitude toward the expenditures from the checking account; once it advised the transition staff of the provisions of the act, it believed it was up to them to observe them. In contrast, GSA adopted strict standards on the disbursements which it approved before payment. It questioned many payments and the certifying officer obtained approval from its General Counsel on any questionable items.

In GSA's post audit of the expenditures from the checking account it questioned some of the expenditures and obtained some refunds. A post audit of this type, however, is not as effective as an examination prior to payment. The obtaining of additional documentation, justifications, or refunds 4 or 5 months after the expenditure may not be possible and is often unfair and expensive.

In our discussion with the Carter/Mondale transition staff their position was that since they had been designated to represent the President-elect and Vice President-elect on matters relating to financing the transition their decisions on the propriety of expenditures should prevail. The position of GSA officials seemed to be that they advised the transition staff of its responsibility for the proper use of the funds and if any problems developed it would be the transition team's responsibility.

Some of the problems which resulted from the use of the checking account are discussed below.

Collections for use of chartered flights

The Carter/Mondale transition staff advised GSA early in the transition period that during the Presidential campaign it had been its practice to collect from the press and the Secret Service the cost of any transportation furnished personnel accompanying the candidate. Mr. Gardner, the GSA liaison, told us that he advised Mr. Kallaur that GSA would not get involved in any billing and collection procedures during the transition. Mr. Gardner agreed to provide the transition staff with funds to pay the full cost of any chartered flights but left it up to the transition staff to do the billing and collecting from the press and the Secret Service. Mr. Gardner told us that he reminded Mr. Kallaur that any collections would be Federal funds.

We were told by the transition staff that in addition to chartered aircraft it provided the press with ground transportation. We were also advised that the billings to the press were computed at 150 percent of first-class airfare to cover the cost of both air and ground transportation and that the billings to the Secret Service were computed at 100 percent of first-class airfare because no ground transportation was furnished. The collections from these billings amounted to $86,491 and were deposited in the checking account. Under existing law these collections should have been deposited as miscellaneous receipts in the General Fund of the Treasury. As indicated in chapter 2, the reuse of these collections by the transition team did not result in an over obligation of appropriated funds. However, the availability of these additional funds permitted the transition staff to make expenditures from the checking account without requesting GSA to advance additional funds and justifying the purpose for which they were to be used.

It is not clear when GSA first became aware of the extent of the collections from the press and Secret Service and the fact that they were being deposited in the checking account and used for transition purposes. In any event, about 10 days after the end of the transition period the Carter/Mondale transition staff sent GSA a report prepared by a public accounting firm showing in summary form the source and use of the checking account funds. GSA advised the transition staff that the report was not an adequate accounting of the use of transition funds and began pressing for a detailed report.

At the end of the transition period there were many outstanding billings to the press and salary advances to be collected as well as unpaid bills which the transition staff wanted to pay before closing the checking account. On June 6, 1977, the transition staff turned over the checking account records to GSA.

GSA questioned some expenditures including some for which the transition staff obtained refunds. GSA also requested GAO to determine whether the collections from the press and Secret Service should have been deposited in miscellaneous receipts of the Treasury or retained in the Transition Act appropriation. The law (31 U.S.C. 484) provides that unless otherwise provided all monies received for the use of the United States are to be deposited in the General Fund of the Treasury. We advised GSA that there is no authority in the Transition Act to retain these receipts and that the amounts collected should be deposited as miscellaneous receipts in the General Fund of the Treasury.

The Carter/Mondale transition staff believes it is unfair not to permit the use of monies collected to offset transportation expenses. In our opinion, present law does not permit such offsetting but we believe it should.

Salary advances

Federal law does not permit the payment of salary before it is earned. The agreement betweeen GSA and the transition staff outlined the procedures for placing individuals on the transition payroll. These procedures were not followed for payments from the checking account classified as salary advances. Advances of $10,850 were made from the checking account to 18 people. One advance was made to a person who was never placed on the transition payroll. The other individuals who received advances had worked long enough to have earned all or part of the advance at the time it was made.

One advance was made on November 17, 1976, with the others being made in December 1976 and January 1977. Most of the advances were made to employees before they received their first paycheck but 4 of the 21 advances were made after the employees received their first paychecks. All of the advances have been repaid but some were not repaid for several months; the last repayment was made in May 1977.

In addition to the salary advances from the checking account several individuals received advances from the 1976 Democratic Presidential Campaign Committee, in the early days of the transition. The largest of such advances was for $2,000 to one individual who also received two salary advances amounting to $1,000 from the checking account. GSA reimbursed the Campaign Committee for the salary advances and other expenditures on April 8, 1977, by a Treasury check drawn on the Transition Act funds. The salary advances were recovered from the employees by refunds from them or by offsets to their salary payments.

Per diem payments

The Transition Act permits the payment of travel expenses to staff members at their duty station if it is different than their principal place of business or residence. Many of the Carter/Mondale transition staff assigned to Washington, D.C., came from other parts of the country. Beginning on December 10, 1976, the Carter/Mondale transition staff prepared $500 per diem checks for issuance to its Washington, D.C., staff whose places of business or homes were not in the metropolitan area. During the transition period 126 checks were issued for this purpose.

On December 11, 1976, after most of the $500 per diem checks had been prepared but not issued, Mr. Kallaur requested Mr. Gardner to issue a check for $75,000 to be deposited in the private bank checking account maintained by the Carter/Mondale group. Mr. Gardner in a letter dated December 16, 1976, refused to issue the check for the lump sum payments and outlined the procedures employees were to follow to receive reimbursement under Government travel regulations. On December 20, 1976, however, a check for $82,500 was issued for deposit in the checking account. In a letter accompanying the check Mr. Gardner agreed with the transition staffs' proposal to pay the employees the average daily cost of lodging plus $16 a day for meals and miscellaneous expenses not to exceed $35 per day. He also agreed that each employee would continue to receive these payments until they totaled $500 or the employee permanently relocated in the Washington, D.C., area, whichever came first.

The Carter/Mondale transition group did not require the payment of travel expenses in accordance with Government travel regulations. Each eligible employee was advised that he or she could receive per diem up to $35 per day until payments total $500 or until the employee relocated in Washington, D.C., whichever came first. All of the employees who received the $500 payments merely signed statements saying that their residence was outside the Washington, D.C., area before coming to work for the transition staff and that they had worked in Washington, D.C., for at least 15 days before obtaining a permanent residence.

Under Government travel regulations these employees may have been entitled to receive more than $500 each. For payment of travel expenses, Washington, D.C., had been designated by GSA as a high rate geographical area with a prescribed maximum daily rate of $50. For temporary duty travel at high rate areas the employee is normally entitled to reimbursement for actual and necessary subsistence expenses up to the maximum daily rate. To obtain reimbursement the employee must itemize the amounts spent each day for meals, lodging, and other authorized expenses. Receipts must be provided at least for lodging.

In some circumstances a per diem rate not to exceed $35, which was authorized for these employees, may be prescribed in lieu of actual subsistence for high rate areas, if it is determined that certain factors are present such as the availability of low cost food or lodging to the employee. When such a determination is made, the employees should be entitled to per diem for each day they were in Washington, D.C., before obtaining a permanent residence; the $500 limitation imposed for these employees was arbitrary and not in accordance with Government travel regulations.

The employees who received the $500 per diem payments in December 1976 did not prepare the usual travel vouchers showing the specific days for which they claimed per diem and the average daily cost of lodging. Instead they merely signed statements to the effect that they had been in the Washington, D.C., area at least 15 days before obtaining a permanent residence. Presumably some were here longer and, even assuming a $35 a day per diem rate, could have received more than $500 had the incoming administration authorized the payment of per diem for each day they were employed away from their homes. Also, employees entitled to actual subsistence or per diem payments are entitled to receive travel advances for their expenses but no travel advances were made to these employees. The use of travel advances would have provided these employees with funds and may have avoided some of the financial problems encountered by the transition staff. (See p. 21)

Other questionable expenditures from the checking account

Summarized below are some other questionable expenditures from the checking account. As noted, for one item a refund was received.

$1,516	In December 1976 payments totaling $1,516 were made for a transition staff Christmas party. On May 17 and 18, 1977, the transition staff obtained a refund of $1,500 from the Democratic National Committee Services Corporation and $16 from one transition staff employee which was deposited in the checking account.
$480	A payment of $480 was made for a Thanksgiving dinner provided to members of the press and their families in Plains, Georgia. This payment was approved by the press secretary and the transition administrator.
$392	Transition funds were used to pay for the repair of damages to the car of an employee who worked on the transition staff. We were told by a staff member that the employee worked as a courier for the transition staff and that the car was damaged while he was on transition business.

Casual labor

The November 15, 1976, agreement signed by GSA and the Carter/Mondale representative provided the procedures for placing employees on the transition payroll. These procedures were not applied to so-called "casual labor," principally employees paid at hourly rates for such tasks as typing, opening mail, and providing courier service. At various times during the transition period GSA transferred funds for deposit in the checking account to be used for paying these employees. A total of $87,095 was paid for casual labor.

The Carter/Mondale staff prepared the casual labor payrolls which consisted basically of the employees name, social security number, hourly rate, hours worked, and amount paid. These employees were paid by checks drawn on the checking account and no deductions were made for Federal or State income taxes, or social security taxes.

The Carter/Mondale transition staff prepared and submitted to the Internal Revenue Service, Wages and Tax statements (forms W-2) for most of the casual labor employees which showed the wages paid and that no income or social security taxes were withheld. Forms 1099 (statements of miscellaneous income) were submitted for a few employees classified as casual labor. As of October 15, 1977, neither GSA nor the Carter/Mondale transition staff had filed the employment tax forms nor paid the taxes required by law for the wages paid to these employees. We advised GSA that the required social security tax returns should be prepared and the taxes due paid on the wages of these employees.

FALSE TRAVEL AUTHORIZATIONS

In order to provide some of its employees with salary advances, and avoid some of the problems of what the transition staff perceived as an unresponsive payroll system, the transition staff resorted to the use of false travel authorizations for the payment of so-called "travel advances" of about $18,000 to 69 members of the transition team for trips from Washington, D.C., to Annapolis, Maryland. The trips were never intended to be made and the advances were simply a device to speed-up salary payments to some transition team members. The payments of the advances were made by a GSA imprest fund cashier stationed in the HEW Building, one of the transition team locations. The cashier had a fund of $10,000 and was instructed to make no single payment for more than $300.

Most of the false travel authorizations were approved by Mr. Jonathan Stein, who worked for Mr. Kallaur the transition staff administrator. Some were signed as authorized by transition staff members in one of the various transition groups. The requests for travel advances, generally for $300 but some for smaller amounts, were in all cases signed by the employee who received the advance as requestor and signed by an approving official, in most cases Mr. Stein.

The transition administrator contends that the use of false travel authorizations and advances was resorted to because the GSA payroll system was unresponsive to the immediate needs of some transition team members for salary payments. He also contends that Mr. Gardner knew that the imprest fund was going to be used for salary advances. He stated that he asked Mr. Gardner for funds to place in the checking account in a private bank to make such advances and that Mr. Gardner refused saying that the Carter/Mondale team had $10,000 available in the petty cash fund and it should be used. The only reason given by the transition administrator as to why the use of false travel authorizations and advances was used to make salary advances is that no readily available system existed for obtaining salary advances from the imprest fund but there was one for travel advances.

Mr. Kallaur also maintains that Mr. Gardner must have known about the false travel advances because he approved the petty cash reimbursement vouchers for the advances made for 74 trips to Annapolis. He claims further that the imprest fund cashier also must have known about the true purpose of the advances since she was stationed with the transition team at the HEW building and could see that some of the people who received the advances did not travel.

Mr. Gardner denies that he ever told Mr. Kallaur to use the imprest fund for salary advances. Because of the publicity concerning these advances, the GSA certifying officer prepared a statement in which he relates that in late November 1976 when the imprest fund cashier presented her first reimbursement voucher he brought to Mr. Gardner's attention the fact that most of the funds had been used for travel advances for trips to Annapolis and that Mr. Gardner said he would discuss them with Mr. Kallaur.

Mr. Gardner told us that he did not discuss the purpose of the numerous advances for trips to Annapolis with Mr. Kallaur. He stated he would have had no reason to question them since they were approved by Mr. Stein who was authorized to do so. He also told us that in approving the reimbursement vouchers he did not check all the supporting documents.

The certifying officer's statement says that early in December 1976 he asked Mr. Stein about the Annapolis trips and that Mr. Stein told him that there were no trips to Annapolis and that the payments were actually salary advances. The certifying officer said that prior to this discussion with Mr. Stein, Mr. Gardner had approved an imprest fund reimbursement voucher which included about 10 Annapolis advances. The certifying officer told us that because Mr. Gardner signed the reimbursement vouchers he assumed that Mr. Gardner had approved the use of the imprest fund for salary advances.

In any event, no action was taken by GSA to discontinue the use of the imprest fund for the Annapolis advances which continued to be made through the end of December 1976. About $22,000 was spent from the imprest fund of which about $18,000 was for Annapolis travel advances.

GSA made an effort to expedite the payroll payments to the Carter/Mondale transition staff. Records were not maintained, however, to record the step by step handling of each payroll. Some of the payroll documents were dated, others were not. Where dates were missing we had to rely on a summary prepared by GSA based on the recollections of the employees involved.

The first transition payroll was preceded by the transition staff giving GSA forms 52 (request for personnel action) shortly after the beginning of the transition period. When these forms are completed GSA prepares forms 50 (notification of personnel action) which are entered in the payroll system. These documents should show all pertinent payroll information such as entered-on-duty date, rate of pay, deductions, social security number, etc. but according to the summary prepared by GSA it was not until November 26, 1977, that it received from Mr. Kallaur all of the information necessary to complete these documents for the first payroll.

The GSA summary shows that its personnel office completed the forms 50 for 160 employees and sent them to its payroll section on Saturday, November 27, 1976, and for an additional four employees on Monday, November 29, 1976. To complete the payroll process and obtain the paychecks from Treasury, GSA must obtain either a time card or a certification showing the hours worked by each employee. Mr. Kallaur furnished GSA with the required certification for the first payroll on November 30, 1976.

The payroll documents for the first payroll showed entered-on-duty (EOD) dates for these employees as either November 14 or 16, 1976, and covered the pay period ended November 20, 1976. The entered-on-duty dates for some of these employees was later changed to November 3, 1976, and the additional salary due was paid on a later payroll. Mr. Kallaur told us that the first payroll did not show an EOD date of November 3, 1976, for these employees because he was told by GSA that the payroll could be most easily processed if it only covered a 2-week period.

GSA uses an automated system for the regular payrolls it prepares. Under this system the payroll checks are usually delivered to the employees or their banks about 8 workdays after the close of the pay period, provided that the required payroll information is received within a day or two after the end of the pay period. To provide expedited service when necessary, GSA can prepare a supplemental payroll manually and get the checks to the employees within a day or two. This manual procedure was used for the first transition payroll.

For the 164 employees listed on the certified payroll documents received by the GSA payroll section on November 30th it obtained Treasury checks dated November 30th totaling about $37,000 which were delivered to Mr. Gardner on December 1, 1976. Mr. Gardner told us that all transition paychecks were delivered to Mr. Kallaur on the same day he received them.

The first transition payroll processed through GSA's regular computer procedures covered the pay period ending December 4, 1976. The payroll checks for this period amounting to about $111,000 were dated December 13, 1976, and available for delivery to the employees on December 15, 1976. The next payroll covering the pay period ended December 18, 1976, was processed on a supplemental payroll. The checks for this period amounting to about $240,000 were dated December 21 and available for delivery to the employees on December 22, 1976. There were two additional regular computer run payrolls and several small supplemental payrolls prepared during the transition period which ended on January 20, 1977.

Included in the people receiving Annapolis advances were six individuals we could not find on the transition payroll. Mr. Stein and Mr. Kallaur told us that there was some indecision on whether some employees would be on the Inaugural staff, the Democratic National Committee staff, or the transition staff and that some travel advance payments went to people who never served on the transition staff. Other than these six, most of the individuals who received these advances had worked long enough to cover all or part of the salary advance at the time it was made.

Most of the 69 individuals who received Annapolis travel advances received only one advance; six received two. Most of the advances were made to transition staff members after they had worked for a period of time but before they received their first paychecks. A few advances were made after employees started receiving regular paychecks. All of the advances have been repaid, but none were repaid immediately after the employees received their first paychecks. A few repaid the advances within 2 or 3 weeks after their first paychecks but most took about a month and a few were not repaid until 3 or 4 months after they received their first paychecks.

Four individuals who received Annapolis travel advances also received salary advances through the checking account. (See p. 17)

The Department of Justice requested and obtained from GSA information on the use of the false travel authorizations by Carter/Mondale staff members. We were advised by an official of the Department of Justice that this matter was still under consideration.

PERIOD OF AVAILABILITY OF TRANSITION ACT FUNDS TO FORMER PRESIDENTS

The Transition Act provides that the GSA Administrator shall provide each former President, for a period not to exceed 6 months from the date of expiration of his term of office, services and facilities of the same general character as that authorized by the act for a President-elect. The 6-month period specified in the act expired on July 20, 1977, for former President Ford but, because of the wording in the law appropriating funds for the Ford-Carter transition, Transition Act funds were available to former President Ford and former Vice President Rockefeller through September 30, 1977.

The first former President to be covered by the provisions of the Transition Act was former President Johnson who left office in January 1969. The law appropriating funds to carry out his transition (P.L. 90-550) stated that the funds would remain available until June 30, 1970. The Chairman of the House Appropriations Committee advised us that the intent of the Committee was to make the Transition Act funds available through June 30, 1970, and requested our Office to rule on whether this intention would prevail over the 6 month limitation in the authorizing legislation. He was advised that the language in the appropriation act would prevail and that the funds would be available through June 30, 1970.

The appropriation act which provided the Transition Act funds for former President Nixon specified that the funds appropriated would only be available through February 8, 1975, 6 months after he resigned.

The appropriation act (P.L. 94-438) which made available the additional $2.1 million in transition funds authorized by the 1976 amendments to the Transition Act, however, specified that the funds appropriated were to remain available until September 30, 1977. GSA advised the former President's staff, based on our 1969 decision, that the Transition Act funds would remain available until September 30, 1977.

The contradiction in the period of availability specified in the authorizing legislation and the appropriation acts resulted in several problems which should be resolved. The Former Presidents Act of 1958, authorizes the appropriation of funds for services and staff provided to a former President.

Funds for these purposes become available 6 months after the expiration of his term of office as President. That act also authorizes the payment of a pension to former Presidents, currently $66,000 a year, which begins as soon as he leaves office. On May 4, 1977, GSA obtained a supplemental appropriation of $107,000 to carry out the provisions of that act as it applied to former President Ford. About $50,000 of this amount was required to pay the former President's pension from January 20, 1977, through September 30, 1977, while the remainder was available concurrently with the Transition Act funds from July 21, 1977, through September 30, 1977.

The availability of Transition Act funds for more than 6 months provided several advantages to former President Ford, as it did to former President Johnson, that would not be available under the Former Presidents Act. For example, the Former Presidents Act limits the office space provided to a former President to just one location whereas the Transition Act does not. Also, total staff salaries under the Former Presidents Act were limited to $96,000 a year whereas there is no limit to the total salaries authorized under the Transition Act. Also, the funds provided under the Former Presidents Act can be used for travel of only the former President and no more than two members of his staff. There is no limit on the number that can travel under the provisions of the Transition Act.

Although Transition Act funds would also have been available to former Vice President Rockefeller after July 20, 1977, he closed his only office in Washington, D.C., before that date.

We have included in chapter 4 (p. 34) a recommendation to clarify the period of availability and to prevent overlapping of Transition Act and Former Presidents Act funds.

FURNISHING OF MILITARY AIRCRAFT TO THE INCOMING AND OUTGOING ADMINISTRATIONS

The Transition Act authorizes the payment of the travel expenses found necessary by the incoming and outgoing President and Vice President. Both administrations paid for the use of both regular commercial and charter air flights during the transition period with Transition Act funds. In addition, President-elect Carter, Vice President-elect Mondale, various other persons involved in the transition, and former President Ford used military aircraft. The cost of these trips was not charged to Transition Act funds.

The Air Force has developed standard costs per flight hour for the type of aircraft used by the incoming and outgoing administrations. We were advised by the White House, which controls the assignment of the aircraft used, that on the basis of these standards the cost of the flights furnished to the incoming administration during the transition was about $133,000 and the cost of the flights furnished to former President Ford through May 15, 1977, was about $98,000.

The Air Force absorbed the cost of the flights furnished to both the incoming and outgoing administrations except for $25,000 which was charged to the Secret Service. Secret Service agents traveled with the President-elect, Vice President-elect and the former President on these flights but the Secret Service was only charged for the air service provided the agents who accompanied the former President. Public Law 94-524 enacted October 17, 1976, requires the Secret Service to reimburse the Air Force for any service provided in connection with protecting a President-elect and Vice President-elect.

We believe it was the intent of the October 14, 1976, amendments to the Transition Act (P.L. 94-499) that the funds authorized to be appropriated would be used to pay for all of the necessary expenses of a transition. Prior to the enactment of this amendment, for example, the services of Government employees could be furnished to both the incoming and outgoing administrations on either a reimbursable or non-reimbursable basis. The amendment, in addition to authorizing the appropriation of additional funds for each transition, provided that the services of Government employees could only be provided on a reimbursable basis. In our opinion, the 1976 amendment to the act removed the only authority for the expenditure of Government funds for transition purposes, other than those provided pursuant to the Transition Act. The costs incurred by the Secret Service noted above are for protective not transition purposes.

In assigning the military aircraft to former President Ford, the White House relied on a memorandum dated January 25, 1977, prepared by the Office of Legal Counsel, Department of Justice, which concluded that the President had authority to assign such aircraft to a former President for either official or personal use. We have reviewed the legal citations on which this conclusion was based and do not believe that the President has the authority to assign such planes without reimbursement.

We have advised the White House Office that the Secret Service should be billed for its share of the costs of the flights provided the incoming administration and that the remaining costs of the flights provided to either the incoming or outgoing administrations be billed to GSA for payment from Transition Act funds.

These additional charges will not result in an overobligation of Transition Act funds. To clarify the authority to use military aircraft for transition related purposes and to make certain that all appropriate costs are charged to Transition Act funds or Former Presidents Act funds, we recommend in chapter 4 (p. 31) appropriate amendments to both acts.

CHAPTER 4

CONCLUSIONS, RECOMMENDATIONS,

AND AGENCY COMMENTS

The Ford-Carter transition was the first to test the workability of financing a transition entirely with Presidential Transition Act funds. Some mistakes were made and problems encountered in administering the funds provided but we believe it was demonstrated that a change in executive power financed entirely by funds appropriated under the Presidential Transition Act is a viable concept. We believe future administrations can benefit from this experience and with better cooperation between GSA and future transition staffs, we believe the concept of Federal financing of transitions will work even better. We are recommending some changes in the law to avoid some of the problems.

CONCLUSIONS

The unavailability of private funds, which could be made available quickly and used without regard to the restrictions in the Transition Act and Government regulations, undoubtedly contributed to some of the problems encountered in administering the financing of the incoming Carter/Mondale administration. Other factors which created problems were related to the dual responsibility delegated by the act to GSA and the transition staff. The act authorizes the Administrator of GSA to provide upon request, each President-elect and Vice President-elect with office space, staff, and certain services enumerated in the act. The act also provides that each President-elect and Vice President-elect may designate an assistant to make on their behalf such designations or findings of necessity in connection with services and facilities provided under the act.

The Carter/Mondale transition staff believed that if their designee determined an expenditure was necessary to the transition, GSA should make the expenditure. GSA believed, however, that it had the final responsibility for determining if a proposed expenditure was authorized by the act. What was adopted was a dual system which didn't work well.

GSA and a representative of the President-elect signed an agreement on November 15, 1976, which outlined in a fair amount of detail the provisions of the act and the procedures to be followed in obtaining through GSA the services authorized by the act. The agreement was negated to a large extent, however, by giving the transition staff sole control of a checking account through which more than $329,000 of transition expenditures were made without prior GSA approval.

Although GSA advised the transition staff with each transfer of funds to the checking account that it could only be spent in accordance with the provisions of the act, it made no effort during the transition period to see if its instructions were followed. It was more than 4 months after the inauguration before the records supporting the expenditures from the checking account were turned over to GSA.

GSA questioned some of the expenditures. A post audit of this type, however, is not as effective as an examination prior to payment. The obtaining of additional documentation, justifications, or refunds 4 or 5 months after the expenditure may not be possible and is often unfair and expensive.

Concerning the false travel authorizations for the trips to Annapolis, we obtained contradictory stories as to whether the use of these false authorizations was done with the knowledge of GSA's transition liaison. There is nothing in the written record to show that he approved use of the imprest fund to obtain salary advances. What is clear, however, is that GSA's liaison approved without question reimbursement vouchers for the imprest fund of which $18,000 of a total of $22,000 was for travel advances for trips to Annapolis.

The transition staff advised us that it resorted to the false travel authorizations only because the GSA payroll system could not accomodate the urgent needs of some staff members for salary checks.

GSA made a special effort to get salary checks to the transition staff as quickly as possible. Initially, the major delay in making the salary payments was the transitions staff's delay in providing GSA with the information on salary rates and time worked. Several of the payrolls were paid on supplemental payrolls which enabled the employees to receive their checks within a few days after the end of the pay period instead of the normal 8 workdays lag. Also, as noted on page 24 some of the transition staff received advances after they received their first pay checks.

The use of travel advances for employees stationed in Washington, D.C., whose home or place of business was elsewhere might have relieved some of the cash shortage problems of the employees.

In our opinion, the problems encountered in the Carter/Mondale transition suggest two solutions which might be adopted in future transitions. We believe the preferable solution would be to make it clear in the act that except for payments from a small imprest fund, no payments of Transition Act funds can be made without the prior approval of the Administrator of GSA or his representative. We have made a recommendation to accomplish this.

The other solution would be to make the President-elect's designee solely responsible for the use of the transition funds and remove most of the restrictions in the act which cite various laws concerning the purposes for which the funds may be used. The only major requirement would be that the funds could only be used for transition purposes and that a report be submitted to the Congress after the transition period detailing the purposes for which the funds were used.

To resolve the problem of the period of availability of Transition Act funds for former Presidents, we are recommending that the Transition Act be amended to remove the provisions pertaining to former Presidents and Vice Presidents. We are also recommending amendments which would make funds appropriated under the Former Presidents Act available as soon as a President and Vice President leave office. The adoption of these recommendations would mean that funds appropriated under the Former Presidents Act would be available during the balance of the fiscal year in which they leave office--8 months and 10 days. Thereafter funds would only be provided to a former President.

RECOMMENDATIONS TO THE CONGRESS FOR CHANGES IN LEGISLATION

We issued a report to the Congress dated December 24, 1975, on "Federal Assistance For Presidential Transitions: Recommendations For Changes In Legislation." On October 14, 1976, the Transition Act was amended to include two of the amendments recommended in that report; an increase in the funds authorized for the incoming administration and deletion of the provision which permitted the detailing of Federal employees to former Presidents on a nonreimbursable basis. The act as amended also prohibits the detailing of Federal employees to the incoming administration on a nonreimbursable basis and authorized the appropriation of additional funds for the outgoing administration.

We believe some of the problems encountered in the Ford-Carter transition would be minimized in future transitions by changes in legislation. We are also repeating in this chapter the recommendations in our prior report which were not enacted.

PRESIDENTIAL TRANSITION ACT

We believe this act should deal solely with the assistance to be provided the incoming administration. For all intents and purposes the transition period is over when the new President takes the oath of office. A former President may be more active in the months immediately after he leaves office but the type of activities on which he needs assistance do not change materially. Presently, the assistance provided to a former President is provided in two laws whose provisions are similar but not identical; the Former Presidents Act and the Presidential Transition Act. A former President's pension is paid from Former Presidents Act funds and begins as soon as he leaves office; the other services provided by that law begin 6 months after he leaves office and are subject to some limitations not included in the Transition Act. Also as described on page 25, on two occasions both Transition Act and Former Presidents Act funds have been available concurrently for similar services.

Delete provisions dealing with outgoing administration

We believe the needs of a President-elect and a former President are sufficiently different to justify legislation separating the authority for the assistance to be provided each. We therefore recommend that the Presidential Transition Act be amended to

--Delete section 4 dealing with services and facilities provided to former Presidents and former Vice Presidents and that part of section 5 authorizing the funds to be appropriated for such services and facilities.

Add provisions dealing with military and chartered aircraft

During the Ford-Carter transition extensive use was made by both the incoming and outgoing administrations of military aircraft. Part of the cost of using these aircraft by the Former President was charged to the Secret Service but the balance of the costs was absorbed by the Air Force. We have advised the White House and GSA to make the appropriate adjustments to charge part of the cost of the flights used by the incoming administration to the Secret Service and the balance to Transition Act funds.

In addition to the military aircraft, private planes were chartered by the incoming administration principally on flights used by the President-elect, the Vice President-elect or members of their families entitled to Secret Service protection. The transition staff collected part of the cost of the chartered flights from the Secret Service and the press who occupied space on these flights. The collections were deposited in a checking account in a private bank and used for various transition expenses but because there was no authority in the Transition Act to retain these collections we advised GSA subsequently that these collections should be deposited to miscellaneous receipts in the general fund of the Treasury.

We believe that the Transition Act should be amended to clarify the act concerning (1) the authority to use military and chartered aircraft for transition purposes, (2) the appropriation to be charged for the cost of using military aircraft, and (3) the disposition of collections from the Secret Service, the press, and others for the use of space on chartered aircraft. We therefore recommend the act be amended by

--Adding at the end of Section 3(a) (4) dealing with travel expenses a provision stating that when requested by the President-elect or Vice President-elect or their designee, and approved by the President, Government aircraft may be provided on a reimbursable basis to assist in the transition. Also, add a provision that when requested by the President-elect, Vice President-elect or their designee, aircraft may be chartered for transition purposes and that any collections from the Secret Service, the press, or others occupying space on such chartered aircraft be credited to the Transition Act appropriation.

Approval of expenditures by GSA

Many of the problems encountered in administering the Transition Act as it pertained to the incoming administration involved the use of a checking account in a private bank. The use of this account permitted the transition staff to use transition funds without the usual GSA prepayment review.

In our opinion, it is the intention of the act that the Administrator of GSA be responsible for determining whether any proposed obligation or expenditure is authorized by the act and meets the usual requirements of Government regulations pertaining to travel, payroll, etc. It is our view that the provision in section 3(e) dealing with the designation of an assistant was intended merely as a device to relieve the President-elect and Vice President-elect of the many details involved in requesting services and facilities. It was not intended to dilute the Administrator's responsibility for determining whether proposed obligations or expenditures are authorized by the act. The use of a private checking account avoided the usual GSA prepayment scrutiny and resulted in several problems discussed in chapter 3.

To avoid similar problems in future transitions, we recommend that the act be amended to

--Add at the end of Section 3(e) a provision that, except for the national security expenditure provision in that section and expenditures from a small imprest fund, obligation and expenditure of transition funds may only be made with the prior approval of the Administrator or his designee.

FORMER PRESIDENTS ACT

The deletion of section 4 of the Transition Act would mean that all services to be provided a former President would be covered in the Former Presidents Act and there would be no provision for providing services to a former Vice President after he left office. In our December 24, 1975, report we therefore made several recommendations, which we are repeating here, to (1) remove some of the restrictions in the act concerning total salaries and travel, (2) clarify some of the provisions of the Former Presidents Act, and (3) make provisions for the services to be furnished a former Vice President.

Staff salaries

The Former Presidents Act, as of September 30, 1977, limited to $96,000 per year the total salaries that could be paid to the staff of a former President. Public Law 95-138 enacted October 18, 1977, increased this limit to $150,000 during the first 30 months that staff assistance under the Former Presidents Act is authorized. After 30 months the limit reverts to $96,000 a year. During the first fiscal year of a transition a former

President usually requires a larger staff than in succeeding years. We believe that the ceiling should be removed so that the staff requirements of a former President could be adjusted through the appropriation process to meet particular circumstances as they develop. The Former Presidents Act, unlike the Transition Act, does not permit the detailing of Government employees to assist a former President. We believe he should be permitted to use such staff on a reimbursable basis during the fiscal year in which the transition occurs. We therefore recommend that the Former Presidents Act be amended to

--Delete the ceiling on the annual salaries that can be paid to a former President's staff and add a provision authorizing the detailing of Government employees on a reimbursable basis during the fiscal year in which the transition occurs.

Travel

The Former Presidents Act does not mention travel as an authorized expense, but the fiscal year 1969 supplemental appropriation act stated that a former President and no more than two members of his staff were authorized thereafter to use Former Presidents Act funds to pay travel expenses.

We believe that the authorizing legislation rather than an appropriation act should authorize travel expenses of a former President and his staff. Control of the amount authorized for travel can be obtained through the appropriation process, and we are recommending that the Former Presidents Act be amended to include the authority needed to authorize the travel of a former President and his staff. In effect, this would result in the deletion of the limitation restricting travel to just two staff members. If the Transition Act is amended as recommended above, the Former Presidents Act would also cover the period immediately after a President leaves office when travel by more staff members may be required. We therefore recommend that the Former Presidents Act be amended to

--Add a provision authorizing the travel of a former President and members of his staff.

As noted in chapter 3, the cost of military aircraft used by former President Ford was not charged to Transition Act funds and the assignment of these aircraft was based on a Department of Justice determination that such aircraft could be assigned for either official or personal purposes. We do not believe that the President has the authority to assign military aircraft to a former President without reimbursement. During the transition the former President also traveled on some occasions on chartered flights on which part of the costs were paid by the Secret Service. The collections from the Secret Service were deposited in miscellaneous receipts.

To clarify the authority for the use of military or chartered aircraft by a former President, the appropriation to be charged, and the disposition of any receipts from the Secret Service and others accompanying a former President, we recommend the addition of a provision stating that

--When authorized by the President, Government aircraft may be used by a former President for transition purposes. When deemed necessary for protective purposes chartered aircraft may also be used by a former President in winding up the affairs of his Presidency. The cost of either Government or chartered aircraft shall be paid with Former President Act funds and any collections from the Secret Service or others for the use of space on chartered flights deposited to the credit of the Former Presidents Act appropriation.

<u>Clarification or modification of provisions</u>

In our 1975 report, we made several other recommendations to clarify or modify the provisions of the act.

<u>Concerning a former President</u>

--Transfer to the Former Presidents Act the more specific provisions of the Transition Act concerning employee benefits and authorized services.

--Add a provision authorizing the appropriation of funds to pay the expenses of moving the personal effects of a former President from the White House to a place of his choice in the United States.

--Add a provision specifically authorizing the use of funds appropriated under the act for 3 months after a former President's death to allow for the orderly closing of his office.

--Add a provision specifically authorizing the appropriation of funds to pay GSA the Standard Level User Charge for space provided to a former President beginning with the fiscal year following the fiscal year in which a President leaves office. The cost of space is usually one of the major costs of the services provided a former President. The law requires GSA to charge for use of space provided at rates determined in accordance with 40 U.S.C. 490(j) but also permits GSA to waive such charges when it determines that to charge for space would be infeasible or impractical. GSA has waived such charges on the space provided former President Nixon and intends to waive them on the space provided former President Ford under the Former Presidents Act.

Because a former President will probably need office space in Washington, D.C., as well as one other location during the fiscal year in which he leaves office, we are making a new recommendation which would

--Authorize the furnishing of office space in Washington, D.C., and one other place during the fiscal year in which a President leaves office. The Former Presidents Act limits office space to just one place and this limitation would remain in effect during subsequent years.

<u>Widows' pensions</u>

We are also making a new recommendation concerning the pension payable to the widows of former Presidents. The Former Presidents Act as enacted in 1958 provided for a pension of $25,000 a year for a former President and $10,000 a year for the widows of former Presidents. In 1971 the act was amended to provide that the pension of a former President would be equal to the salary of a Cabinet officer, at that time $60,000 a year, and the pension of the widow of a former President, $20,000 a year. Because of increases in the salaries of Cabinet officers a former President now receives $66,000 a year but the pension of widows of former Presidents remains at $20,000. We believe it would be appropriate to establish the widows' pension on a flexible basis similar to that of former Presidents. In 1971 the widows' pension was established at a rate which was one-third of a former President's pension.

We are therefore making a new recommendation that

--The pension authorized for widows of former Presidents be established at one-third of the annual rate authorized for former Presidents.

Approval of expenditures by GSA

During the Ford-Carter transition both the former President's staff and the former Vice President's staff were provided with Transition Act funds for deposit in checking accounts in private banks. The amounts advanced, $5,000 and $2,000, respectively, were relatively small and we noted none of the problems encountered in the use of the much larger checking account made available to the Carter/Mondale staff. These smaller accounts were operated on an imprest basis, i.e., for minor expenses which were submitted to GSA frequently for approval and reimbursement to the checking account for the amount expended.

To prevent any problems which might arise from the use of such checking accounts in the future, however, we are recommending that the former Presidents Act be amended to

--Limit the expenditures that can be made without prior GSA approval to those made from a small imprest fund.

Concerning a former Vice President

We recommend that the provisions of the Transition Act concerning the services to be provided a former Vice President after he leaves office be transferred to the Former Presidents Act with a few changes.

As noted in chapter 3, in two of the last three Presidential transitions there has been a conflict between the authorizing legislation and the appropriation acts as to the period Transition Act funds are available to the outgoing administration. The deletion of section 4 of the Transition Act as recommended would remove this conflict as far as a former President is concerned because the funds would be provided on a fiscal year basis. For ease of administration we believe the services authorized for a former Vice President should also be available during the remainder of the fiscal year in which he leaves office--8 months and 10 days--rather than the 6 months provided in the Transition Act. We therefore recommend that the amendments to the Former Presidents Act provide that

--The services and facilities that will be authorized by the act for a former Vice President will be provided during the fiscal year in which he leaves office.

Other changes recommended are

--Under the Transition Act a former Vice President can be furnished office space at any place or places in the United States. The Former Presidents Act limits a former President to office space in just one place and we are recommending that the law be amended to provide that during the fiscal year in which a President leaves office that he be provided office space in Washington, D.C., and one other place. We recommend that a similar limit be placed on a former Vice President.

--Add a provision authorizing the shipment of the personal effects of a Vice President and his family from the official Vice Presidential residence in Washington, D.C., to a location in the United States selected by him.

Providing funds to the outgoing administration

The removal from the Transition Act of the authorization for an appropriation of not more than $1 million to assist the outgoing administration, as recommended above, would mean that funds would have to be available under the Former Presidents Act as soon as the outgoing administration leaves office. There is a natural reluctance on the part of an administation with a President running for reelection to request funds under the Former Presidents Act which would only become available to him if he is defeated. This reluctance is overcome in the Transition Act by a provision which requires a President to request an appropriation for each fiscal year in which his term will expire. We believe that a similar provision should be added to the Former Presidents Act. We therefore recommend the addition of a provision to require

--The President to include in the budget transmitted to the Congress for the fiscal year in which his regular term of office expires, a proposed appropriation providing sufficient funds to carry out the provisions of the Former Presidents Act as it would apply to him and the Vice President.

AGENCY COMMENTS

On November 3, 1977, we requested comments on a draft of this report from the Administrator of GSA, the Director of the Carter/Mondale transition staff, and former President Ford's transition representative. GSA had not furnished us with its comments at the time this report was finalized. Summarized below are the comments from the Carter/Mondale and Ford officials.

Carter/Mondale

The Director of the Carter/Mondale staff said that he agreed generally with our recommendations. (See app. III.) He did not agree, however, with our recommendation that the Transition Act be amended to require that expenditures of transition funds be approved in advance by the Administrator of GSA. He suggested instead that the President-elect's designee be solely responsible for the use of the funds as discussed on page 31.

We believe that better control of transition funds would be obtained if all obligations and expenditures were processed through GSA personnel familiar with the laws and regulations governing the use of Government funds.

Of the $1.7 million in obligations incurred by the incoming administration, $1.4 million was processed through GSA's normal procedures. Most of the mistakes and problems, however, involved the use of the checking account controlled by the incoming transition staff.

Our recommendation envisions the use of a small imprest fund by an incoming administration for expenses that need immediate payment. By keeping the fund small, however, GSA would be able to review the fund's expenditures when it needed replenishment. Any problems should be identified at that time and corrected before they become major problems.

The Director of the Carter/Mondale transition staff also suggested that the act be amended to authorize funds to maintain a small staff after the Presidential inaugural to wind up the financial affairs of the incoming administration. If our recommendations are adopted, GSA would have the full responsibility of accounting for the expenditure of transition funds and there should be no need for a transition staff after the inaugural.

The Director of the transition staff also stated that our report should stress that (1) the transition planning group had accounted for all the money spent, (2) all its expenditures were for transition-related purposes, (3) all advances, regardless of the procedures used, had been repaid, and (4) there was sufficient unexpended transition funds to settle any unresolved matters requiring additional charges to the Transition Act appropriation.

Ford

A special assistant to former President Ford advised us that he agreed with all our recommendations. (See app. IV) He suggested one additional change in legislation to permit the obligation of transitio funds available to the outgoing administration before a President leaves office. He said such authority is needed to provide some items, such as telephones and equipment, immediately after a President leaves office. We did not change our recommendations to include this suggestion but it might be considered by the Congress if changes in the Transition Act are considered.

APPENDIX I

NINETY-FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 Rayburn House Office Building

Washington, D.C. 20515

April 30, 1977

The Honorable Elmer B. Staats
Comptroller General of the United States
Washington, D. C. 20548

Dear General:

Last fall, the Congress enacted legislation to increase the funds available for the transition from one presidential administration to another. As you know, the funds were to cover the incoming administration between election day and the Inauguration, and the outgoing administration for a 6-month period following the Inauguration.

We are now approaching the end of the transition period. It would be helpful for the General Accounting Office to audit the expenditure of the funds appropriated by Congress pursuant to that legislation for both the incoming and outgoing administrations. I would appreciate your providing the Committee on Government Operations with a report describing the purposes for which the funds were used, the manner in which they were administered, any problems of which you are aware, and your comments on the adequacy of the basic legislation under which this program is carried out.

With best wishes, I am

Sincerely,

Jack Brooks

Jack Brooks
Chairman

SUGGESTED ADDITIONS AND DELETIONS TO LAWS PERTAINING TO PRESIDENTIAL TRANSITIONS AND FORMER PRESIDENTS

PRESIDENTIAL TRANSITION ACT OF 1963

"Section 1. That this Act may be cited as the 'Presidential Transition Act of 1963.'

"Section 2. The Congress declares it to be the purpose of this Act to promote the orderly transfer of the executive power in connection with the expiration of the terms of office of a President and the inauguration of a new President. The national interest requires that such transitions in the office of President be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs of the Federal Government, both domestic and foreign. Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people. Accordingly, it is the intent of the Congress that appropriate actions be authorized and taken to avoid or minimize any disruption. In addition to the specific provisions contained in this Act directed toward that purpose, it is the intent of the Congress that all officers of the Government so conduct the affairs of the Government for which they exercise responsibility and authority as (1) to be mindful of problems occasioned by transitions in the office of President, (2) to take appropriate lawful steps to avoid or minimize disruptions that might be occasioned by the transfer of the executive power, and (3) otherwise to promote orderly transitions in the office of President.

"Section 3. (a) The Administrator of General Services, referred to hereafter in this Act as 'the Administrator,' is authorized to provide, upon request, to each President-elect and each Vice-President-elect, for use in connection with his preparations for the assumption of official duties as President or Vice President necessary services and facilities, including--

"(1) Suitable office space appropriately equipped with furniture, furnishings, office machines and equipment, and office supplies, as determined by the Administrator, after consultation with the President-elect, the Vice President-elect, or their designee provided for in subsection (e) of this section, at such place or places within the United States as the President-elect or Vice-President-elect shall designate;

"(2) Payment of the compensation of members of office staffs designated by the President-elect or Vice-President-elect at rates determined by them not to exceed the rate provided by the Classification Act of 1949, as amended for grade GS-18: Provided, That any employee of any agency of any branch of the Government may be detailed to such staffs on a reimbursable basis with the consent of the head of the agency; and while so detailed such employee shall be responsible only to the President-elect or Vice-President-elect for the performance of his duties; Provided further: That any employee so detailed shall continue to receive the compensation provided pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption. Notwithstanding any other law, persons receiving compensation as members of office staffs under this subsection, other than those detailed from agencies, shall not be held or considered to be employees of the Federal Government except for purposes of the Civil Service Retirement Act, the Federal Employees' Compensation Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees' Health Benefits Act of 1959;

"(3) Payment of expenses for the procurement of services of experts or consultants or organizations thereof for the President-elect or Vice President-elect, as authorized for the head of any department by section 15 of the Administrative Expenses Act of 1946, as amended 5 U.S.C. [55a] *3109*;

"(4) Payment of travel expenses and subsistence allowances, including rental of Government or hired motor vehicles, found necessary by the President-elect or Vice President-elect, as authorized for persons employed intermittently or for persons serving without compensation by section 5 of the Administrative Expenses Act of 1946, as amended 5 U.S.C. [73b-2] *5703(b)-(d), 5707* as may be appropriate; *when requested by the President-elect or Vice President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, Vice President-elect, or their designee aircraft may be chartered for transition purposes, any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the Presidential Transition Act appropriations;*

"(5) Communications services found necessary by the President-elect or Vice President-elect;

"(6) Payment of expenses for necessary printing and binding, notwithstanding the Act of January 12, 1895, and the Act of March 1, 1919, as amended 44 U.S.C. [111] *501*.

"(7) Reimbursement to the postal revenues in amounts equivalent to the postage that would otherwise be payable on mail matter referred to in subsection (d) of this section.

"(b) The Administrator shall expend no funds for the provision of services and facilities under this Act in connection with any obligations incurred by the President-elect or Vice-President-elect before the day following the date of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2, or after the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.

"(c) The terms 'President-elect' and 'Vice-President-elect' as used in this Act shall mean such persons as are the apparent successful candidates for the Office of President and Vice President, respectively, as ascertained by the Administrator following the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

"(d) Each President-elect shall be entitled to conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by him in connection with his preparations for the assumption of official duties as President, and such mail matter shall be transmitted as penalty mail as provided in title 39, United States Code, section [1152] *3202*. Each Vice-President-elect shall be entitled to conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by him under his written autograph signature in connection with his preparations for the assumption of official duties as Vice President.

"(e) Each President-elect and Vice-President-elect may designate to the Administrator an assistant authorized to make on his behalf such designations or findings of necessity as may be required in connection with the services and facilities to be provided under this Act. Not more than 10 per centum of the total expenditures under this Act for any President-elect or Vice-President-elect may be made upon the basis of a certificate by him or the assistant designated by him pursuant to this section that such expenditures are classified and are essential to the national security, and that they accord with the provisions of subsections (a), (b), and (d) of this section. *All other obligations and expenditures, except from a small imprest fund which may be established, may only be made with the prior approval of the Administrator or his designee.*

APPENDIX II

"(f) In the case where the President-elect is the incumbent President or in the case where the Vice-President-elect is the incumbent Vice President, there shall be no expenditures of funds for the provision of services and facilities to such incumbent under this Act, and any funds appropriated for such purposes shall be returned to the general funds of the Treasury.

["Sec. 4 The Administrator is authorized to provide, upon request, to each former President and each former Vice President, for a period not to exceed six months from the date of the expiration of his term of office as President or Vice President, for use in connection with winding up the affairs of his office, necessary services and facilities of the same general character as authorized by this Act to be provided to Presidents-elect and Vice-Presidents-elect. Any person appointed or detailed to serve a former President or former Vice President under authority of this section shall be appointed or detailed in accordance with and shall be subject to, all of the provisions of section 3 of this Act applicable to persons appointed or detailed under authority of that section. The provisions of the Act of August 25, 1958 (72 Stat. 838; 3 U.S.C. 102, note), other than subsections (a) and (e) shall not become effective with respect to a former President until six months after the expiration of his term of office as President.]

"Sec. [5]4 There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition

[(1)] not more than $2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and Vice President-elect under section 3. [and]

[(2) not more than $1,000,000 may be appropriated for the purposes of providing services and facilities to the former President and former Vice President under section 4.]

The President shall include in the budget transmitted to the Congress, for each fiscal year in which his regular term of office will expire, a proposed appropriation for carrying out the purposes of this Act.

Former Presidents Act of 1958

FORMER PRESIDENTS *and Vice Presidents:* ALLOWANCE: SELECTION, COMPENSATION, AND STATUS OF OFFICE STAFF; OFFICE SPACE; WIDOW'S ALLOWANCE, TERMINATION; "FORMER PRESIDENT" *"and Vice President"* DEFINED

"(a) Each former President shall be entitled for the remainder of his life to receive from the United States a monetary allowance at a rate per annum, payable monthly by the Secretary of the Treasury, which is equal to the annual rate of basic pay, as in effect from time to time, of the head of an executive department, as defined in section 101 of title 5, United States Code. However, such allowance shall not be paid for any period during which such former President holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

"(b) The Administrator of General Services shall, without regard to the civil-service and classification laws, provide for each former President an office staff. Persons *so* employed [under this subsection] shall be selected by the former President and shall be responsible only to him for the performance of their duties. *Persons so employed shall not be considered to be employees of the Federal Government except for the purposes of the Civil Service Retirement Act, the Federal Employees' Compensation Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees' Health Benefits Act of 1959.* Each former President shall fix basic rates of compensation for persons employed for him under this paragraph [which in the aggregate shall not exceed $96,000 per annum except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation shall not exceed $150,000 per annum]. The annual rate of compensation payable to any such person shall not exceed the highest annual rate of basic pay now or hereafter provided by law for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code.

During the fiscal year in which a President leaves office any employee of any branch of the Government may be detailed to the former President's staff on a reimbursable basis with the consent of the head of the agency; and while so detailed such employees shall be responsible only to the former President for the performance of his duties; any employee so detailed shall continue to receive the compensation provided *pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption.*

"(c) The Administrator of General Services shall furnish for each former President suitable office space appropriately furnished and equpped, as determined by the Administrator, [at such] *in Washington, D.C., and at one other* place within the United States as the former President shall specify *during the fiscal year in which he leaves office; thereafter office space will be provided in just one place. Beginning with the fiscal year following the fiscal year in which a President leaves office funds authorized to be appropriated under this act shall be available to pay the General Services Administration or other executive agency providing space to a former President, as authorized by this act, at rates determined in accordance with the provisions of 40 U.S.C. 490 (j) and (k).*

Funds appropriated to carry out the provisions of this act shall be available for the payment of expenses for the procurement of services of experts or consultants or organizations thereof, as authorized for the head of any department by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 3109(b)) as found necessary by the former President; the payment of travel expenses and subsistence allowances, including rental of Government or hired motor vehicles, in accordance with the provisions of chapter 57 of title 5 of the United States Code; when authorized by the President, Governmet aircraft may be used by a former President to assist him in winding up the affairs of his office. When deemed necessary for protective purposes chartered aircraft may also be used by a former President to assist him in winding up the affairs of his presidency. The cost of either Government or chartered aircraft shall be paid with Former Presidents Act funds and any collections from the Secret Service or others for the use of space on chartered flights deposited to the credit of the Former Presidents Act appropriation; communications services found necessary by the former President; and payment of expenses for necessary printing and binding, notwithstanding the Act of January 12, 1895, and the Act of March 1, 1919, as amended (44 U.S.C. 501).

"(d) Funds appropriated to carry out the provisions of this act shall also be available to reimburse the Postal Service for the equivalent amount of postage on franked mail sent by a former President and widows of former Presidents as authorized in 39 U.S.C. 3214 and by former Vice-Presidents as authorized in subsection (g) of this Act.

["(c)] *(e) The Administrator of General Services shall provide for the movement of the personal effects of a former President and his family from the Executive Residence in Washington, D.C. to a location in the United States selected by him.*

"(f) Funds appropriated to carry out the provisions of this act shall be available for 3 months after the death of a former President to permit the orderly closing of his office.

"(g) The Administrator shall furnish for each former Vice President, for a period not to exceed the end of the fiscal year in which his term of office expried, with the services and facilities needed to wind up the affairs of his office. The services and facilities shall consist of suitable office space appropriately furnished and equipped, as determined by the Administrator in Washington, D.C., and one other place within the United States as a former Vice-President shall specify; an office staff selected and responsible only to the former Vice President at pay rates which do not exceed the rate provided by the Classification Act of 1949 as amended, for grade GS-18. Such employees shall not be considered to be employees of the Federal Government except for the purposes of the Civil Service Retirement Act, the Federal Employees' Compensation Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees' Health Benefits Act of 1959. Provided, that any employee of any agency of any branch of the Government may be detailed to such staff on a reimbursable basis with the consent of the head of the agency; and while so detailed such employee shall be responsible only to the former Vice-President for the performance of his duties. Any employee so detailed shall continue to receive the compensation provided pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption.

Payment of expenses is authorized for the procurement of services of experts or consultants or organizations thereof as authorized for the head of any department by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 3109(b)).

Payment of travel expenses and subsistence allowances, including rental of Government or hired motor vehicles, found necessary by the former Vice-President in accordance with the provisions of chapter 57 of Title 5 of the United States Code; communications services found necessary by the former Vice-President is authorized.

Payment of expenses is authorized for necessary printing and binding, notwithstanding the Act of January 12, 1895, and the Act of March 1, 1919, as amended (44 U.S.C. 501); conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by him under his written autograph signature; the shipment of his personal effects and those of his family from the official Vice Presidential Residence in Washington, D.C. to a location in the United States selected by him.

["(e)] *"(h)* The widow of each former President shall be entitled to receive from the United States a monetary allowance at a rate [of $20,000 per annum] *equal to one-third of the rate per annum authorized by section (a) of this act for former Presidents,* payable monthly by the Secretary of the Treasury, if such widow shall waive the right to each other annuity or pension to which she is entitled under any other Act of Congress. The monetary allowance of such widow--

"(1) commences on the day after the former President dies;

"(2) terminates on the last day of the month before such widow--

"(A) dies; or

"(B) remarries before becoming 60 years of age; and

"(3) is not payable for any period during which such widow holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

["(f)] *"(i)"* As used in this section, the term 'former President' *and 'former Vice-President' means a person*

"(1) who shall have held the office of President *or Vice-President* of the United States of America;

"(2) whose service in such office shall have terminated other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

"(3) who does not then currently hold [such office] *the office of President or Vice President."*

(j) The President shall include in the budget transmitted to the Congress, for each fiscal year in which his regular term of office will expire, a proposed appropriation providing funds to carry out the provisions of this act as it would apply to him and the Vice President.

(k) Except for expenditures from a small imprest fund obligation any expenditure of Former Presidents Act funds may only be made with the prior approval of the Administrator or his designee.

December 13, 1977

Mr. Fred J. Shafer, Director
Logistics and Communications Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Shafer:

On November 3, 1977 the General Accounting Office sent us a draft report entitled "Audit of Ford-Carter Presidential Transition Expenditures." Having served as Director of the Carter-Mondale Transition Planning Group, I appreciate the opportunity to comment on that portion of the report which relates to the Carter-Mondale aspect of the Transition.

GAO concluded that the transition experience following Jimmy Carter's victory in the 1976 Presidential election demonstrated the soundness of public financing of the transition process. We agree.

GAO also made several suggestions which merit attention. Generally I agree with your recommendations but would make certain observations:

1. Requiring prior GSA approval of all Transition expenditures would be needlessly burdensome. Perhaps more importantly, it would transfer responsibility for expending Transition funds from the incoming to the outgoing administration. This responsibility, which includes authority to establish the Transition's priorities, should clearly rest with the President-elect. The "dual responsibility" problem created by the present legislation (and addressed in your draft report) should be resolved by making the President-elect's designee solely responsible for use of the funds, as suggested at page 42 of your draft.

2. You rightly recommend that travel reimbursements paid by the press and Secret Service be available for use by the Transition. Such an arrangement is essential to insure that the full amount appropriated by Congress be available for Transition purposes (see attachment).

APPENDIX III

3. I also recommend amending the Transition legislation to permit use of the appropriation for wrapping up Transition affairs after January 20. An enterprise as difficult and complex as a Presidential Transition cannot responsibly close its books on that date. It must insure proper payment to all staff and vendors and collect any amounts which might be due the government for various reasons. A Transition team should be able to maintain a small staff to address these and similar issues for several months following January 20.

As the first incoming Transition team to operate under an entirely federally funded program, we encountered certain problems, as GAO noted in the draft report. I have addressed these problems--most of which were technical in nature--in the attachment to this letter.

If I can be of further assistance, please contact me.

Sincerely,

Jack Watson

Jack H. Watson, Jr.

ATTACHMENT

Despite the difficulties of dealing with varying and complex regulations which govern spending by federal agencies, the financial record of the Carter-Mondale Transition was impressive. Not one cent of federal money was unaccounted for.

During such a hectic and trying period, there were problems, of course, and GAO has pointed to them. Many of the problems, however, were exceedingly technical and resulted from honest but differing interpretations of the Transition Act and other statutes and regulations. I think it is fair to say that the draft GAO report overemphasizes the few problems and gives only passing mention to two important facts:

1) That this transition, like all others, occurred in an atmosphere which was markedly different from that found in the federal bureaucracy generally; and

2) That, despite these circumstances, the Carter-Mondale Transition fully accounted for and appropriately spent its federal financial allotment.

As GAO noted, the 1976 transition was the first financed wholly with federal funds. In effect, the Carter-Mondale Transition served as a "shakedown cruise" for the new system. It worked well, and we would expect future transitions to be even smoother.

ISSUES

GAO has raised certain questions concerning the Carter-Mondale Transition:

-- Whether air charter reimbursements from the media and Secret Service should have been deposited in the United States Treasury;

-- Whether taxes should have been withheld and employer's taxes paid for casual laborers; and

-- The extent to which the Transition Group should have paid for military aircraft used during the transition period.

The balance of this attachment will address these and related issues.

Charter Reimbursements

During the Presidential election campaign, Jimmy Carter and other candidates developed the practice--perfectly legal and logical under the federal election laws--of billing both the press and Secret Service for seats they occupied on charter aircraft. Had there been no such billing, the candidates themselves would have given the reporters and Secret Service agents a free ride. During the transition, the media and Secret Service continued to travel aboard charter flights with the President-elect and Vice President-elect.

Given CAB regulations--which require that charters be fully prepaid by the organization arranging the charter--the Transition Group had no alternative but to pay for the entire charter, then seek reimbursement from the media and Secret Service. There was no practical way for these travelers to pay their respective shares directly to the carrier.

GAO, citing 31 U.S.C. 484, believes that the money reimbursed by the press and Secret Service--some $87,000--should have been deposited directly in the federal Treasury. More precisely, it contends that the Transition was wrong in reclaiming the money. Our reasoning was that Congress--which granted the fixed sum of $2 million for our entire transition--intended that <u>all</u> of that $2 million should be available for transition purposes. We continue to believe that Congress did not contemplate our being unable to recoup money spent for charter aircraft used, in part, by the press and Secret Service.

Because there is considerably more than $87,000 remaining in the Transition fund, this question is academic. In order to conclude the matter expeditiously, we will not challenge GAO's understanding of the law. We agree with GAO, however, that the law should be amended explicitly "to provide for the use of such collections for transition purposes in the future."

Casual Labor

The Carter-Mondale Transition employed a number of short-term casual laborers to handle mail and provide courier services. We considered these individuals to be independent contractors not subject to withholding and related requirements. The question is a close one, however, and we have no objection to treating these individuals as regular employees.

Military Aircraft

GAO has suggested that Transition funds should be used to reimburse the Defense Department for military aircraft utilized during the transition. We agree that the Transition should be the source of payment for all transition-related flights by the President-elect or Vice President-elect or members of the Transition staff. The Justice Department has advised us, however, that the Transition need not pay the Defense Department for any flights unrelated to official transition business. We are analyzing our records to insure that these principles have been correctly applied.

Other Issues

GAO has also inquired about (1) $2,400 disbursed for "questionable" purposes; (2) whether certain salary and travel advances were processed properly; (3) whether money expended for staff *per diem* was processed in accordance with GSA regulations; and (4) whether our records were available for review by GSA.

It is significant to note that GAO has questioned the propriety of only $2,388 in transition expenditures, approximately one-tenth of one percent of the Transition budget. Most of this amount--$1,516--was for a Christmas party for Transition staff for which the Transition was reimbursed by the Democratic National Committee prior to the GAO audit. The balance was related to legitimate Transition business.

GAO implies that the Transition Group violated regulations which prohibit payment of salary before it is earned. In fact, as GAO's report discloses, such advances were made on only a few occasions. Moreover, these advances, like all others made during the transition, were repaid in full. There was certainly no pattern of consistent violation of the regulation in question.

With respect to another advance category, GAO criticizes the use of an Annapolis travel destination to obtain expedited advances for members of the Transition staff. Although there was certainly no attempt to deceive anyone (GSA officials were fully aware of the practice) and even though the Justice Department's Civil Division has investigated the situation and found no basis for pursuing it (see attachment), the practice presented an unfortunate appearance. We earnestly believe, however, that some method must be found for providing expeditious advances to those new Transition employees whose current, pressing human needs must be considered.

GAO has also questioned our use of lump sum *per diem* payments of $500 to eligible workers. No one has suggested that the individuals in question were ineligible for such *per diem*; indeed, one of GAO's criticisms appears to be that the employees could have been paid substantially more. The basic criticism appears to be that we cut too much red tape. Since the payment of *per diem* was efficient and since it saved money, we believe that the criticism is unfounded and excessively technical.

Finally, GAO suggests that the Transition was tardy in making its records available to GSA for inspection. The simple fact is that our books were always open and available, from the first day of the transition to the present. GSA could have examined them at any time.

CONCLUSION

The transition worked well. We spent federal money appropriately and generally in accordance with established governmental practices. A few problems arose because of ambiguities in the law, but none of a serious nature.

Going beyond the minor questions of procedure, I respectfully suggest that GAO's report should stress the following substantive points:

1) The Carter-Mondale Transition Planning Group has accounted for every penny of the money it spent;

2) All its expenditures were for legitimate transition-related purposes;

3) Every advance which was disbursed, regardless of the procedure utilized, has been repaid in full; and

4) To the extent that certain matters are still being resolved, there are sufficient unexpended funds remaining in our Transition account to cover all contingencies.

APPENDIX III

Department of Justice
Washington, D.C. 20530
July 1, 1977

ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION
BAB:JRE:KSG:pah
46-16-1350

Mr. Herman W. Barth
Acting General Counsel
General Services Administration
Washington, D.C. 20405

Dear Mr. Barth:

I wish to inform you that the Civil Division of the Department of Justice has completed its investigation in the matter of the Carter/Mondale Transition Group Travel Advances to Annapolis, Maryland. Our investigation disclosed no evidence of monetary damage to the United States or other factors warranting the insitution of civil suit, and, accordingly, we have closed the Division's file.

Thank you for your cooperation in this regard.

Very truly yours,

Barbara Allen Babcock

BARBARA ALLEN BABCOCK
Assistant Attorney General

APPENDIX IV

OFFICE OF
GERALD R. FORD

November 29, 1977

Dear Mr. McAuley:

The draft of the proposed report on the Audit of the Ford-Carter Presidential Transition Expenditures has been reviewed and I feel the recommendations for changes in legislation are sound, valid and definitely needed.

One additional suggestion to consider would be the addition of language which would allow for the satisfaction of expenses (or the obligation of expenses) incurred prior to the legal date the appropriation becomes available for disbursement.

The reason for such language is to allow for the establishing of certain contracts prior to the date a transition office comes into existence. Examples of this need would be contracting for a post office box, telephone service, an automobile or the delivery of office equipment.

My compliments on a thorough and well-prepared report.

Sincerely,

R.L. Wennekamp
by Stark

Richard L. Wennekamp
Special Assistant
to President Ford

Mr. Charles McAuley
United States General Accounting Office
Washington, D. C. 20548

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