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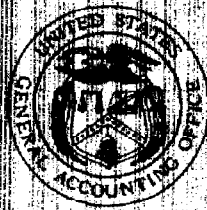
United States General Accounting Office

Report to Congressional Requesters

July 1994

**RECORDS
MANAGEMENT**

**Inadequate Controls
Over Various Agencies'
Political Appointee
Files**



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United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-256931

July 13, 1994

The Honorable Lee H. Hamilton
Chairman

The Honorable Benjamin A. Gilman
Ranking Republican Member,
Committee on Foreign Affairs
House of Representatives

The Honorable William F. Clinger
Ranking Republican Member,
Committee on Government Operations
House of Representatives

The Honorable Howard L. Berman
Chairman, Subcommittee on International Operations,
Committee on Foreign Affairs
House of Representatives

The Honorable Henry J. Hyde
House of Representatives

In response to your request, we reviewed the adequacy of controls over records created and maintained on political appointees at the Departments of State, Commerce, and the Interior; the U.S. Agency for International Development (USAID); and the Office of the Secretary of Defense (OSD). Political appointees include Senate confirmed presidential appointees, noncareer Senior Executive Service, and Schedule C employees. We are providing a separate report concerning the retrieval of files on the Bush administration's political appointees at the State Department, including information on specific issues raised by the minority requesters.¹

Background

The information in records on political appointees is protected under several laws. The Privacy Act (5 U.S.C. 552a) restricts the disclosure of personally identifiable information maintained by agencies. The act also requires agencies to publish a description of each system of records² in the Federal Register. Federal records, as defined in 44 U.S.C. 3301, are

¹Records Management: Retrieval of State Department's Political Appointee Files (GAO/NSIAD-94-187, July 13, 1994).

²The Privacy Act defines a system of records as a group of any records under the control of any agency from which information is retrieved by the name of the individual or some other identifying particular assigned to the individual.

documentary materials, regardless of form or characteristic, that are (1) made or received by an agency either to comply with law or to conduct public business and (2) preserved³ or appropriate for preservation as evidence of the agency's organization, functions, and activities or because of the value of the information in them. 44 U.S.C. 3102 charges agency heads with establishing controls over the creation, maintenance, use, and disposition of records. However, the disposition⁴ of federal records is authorized only when an agency has received the approval of the National Archives and Records Administration (NARA).

On September 1, 1993, the Washington Post reported that Clinton administration officials at State had reviewed files of the Bush administration's political appointees. The article described the contents of the files of the former Assistant Secretary of State for Consular Affairs, who, according to the article, led the search of the passport files of then-candidate Bill Clinton; and the former Deputy Chief of Protocol at State, who, according to the article, had previously served as Mr. Bush's executive assistant when he was Vice President.

State management referred the matter to State's Inspector General for an investigation into possible Privacy Act and other statutory violations. On January 31, 1994, the Inspector General reported⁵ that officials in State's White House Liaison Office had retrieved the files created by the White House liaison at State during the Bush administration and that release of information from the records to the press appeared to violate the Privacy Act. Because of the incident, two Clinton administration appointees were fired. The retrieval of the files also raised questions concerning whether State management had adequately protected political appointee records and if controls at other agencies adequately protect similar records.

For purposes of this report, we have divided the agencies' records on political appointees into three categories, all of which are subject to rules and regulations governing records creation, maintenance and use, and disposition. The categories are (1) files containing letters of recommendation, resumes, and other correspondence created and maintained by the agency's office that acts as the liaison to the White House; (2) Official Personnel Folders, maintained in the agency's personnel office, which document a person's federal employment and are

³Filed, stored, or systematically maintained.

⁴The actions taken regarding records no longer needed for current government business, including transfer to agency storage facilities and disposal.

⁵Report of Investigation: Privacy Act Violation, OIG Case No. 93-173.

used to screen qualified employees and to determine their rights and benefits under law; and (3) records such as policy and precedent documents, individual case files, and credential files created and maintained by State's Presidential Appointments Office on all presidential and ambassadorial appointees at State and individuals receiving Foreign Service appointments at USAID, Commerce, and other agencies.

Results in Brief

Weaknesses in State's management and control of records enabled the Clinton administration's political appointees in State's White House Liaison Office to retrieve the White House liaison files on Bush political appointees.

After the presidential election in November 1992, the Bush administration's White House liaison staff at State became concerned about their records and asked State records management staff for assistance in determining the proper disposition of them. After examining the files, records management officials concluded that no specific written instructions existed on what to do with most of the records. Records management officials then drafted a disposition schedule for NARA's approval, requesting authority to destroy the records. They provided the Bush White House liaison officials a memorandum containing their conclusions and recommendations, stating that the records on Bush political appointees (1) should not be left in the White House Liaison Office with the change in administration and (2) would be retained in storage until the proposed disposition schedule was approved. However, officials in the Clinton White House Liaison Office were allowed to retrieve the records. In addition, a State information services official altered the records manifest erasing the security classification of documents in the records. As a result, documents classified for national security reasons, as well as files on individuals covered by the Privacy Act, were left unprotected. An underlying weakness in State's control is its outdated and unclear descriptions in the Federal Register of systems of records containing records on political appointees.

Controls over White House liaison records on political appointees at the other four agencies we reviewed were also weak. Three agencies had not identified their political appointee records as a system of records as required by the Privacy Act. Three of the four had not prepared disposition schedules for these records. Two agencies destroyed records on political appointees without specific disposition authority, one agency gave the records to individual appointees, and one handled the records in a manner

that the final disposition for most of them could not be determined. A contributing factor is the lack of governmentwide disposition standards for records relating to political appointees. Overall, these weak controls increase the vulnerability of records on political appointees to unauthorized searches and make it hard to determine if the records have been improperly accessed.

Controls over access to Official Personnel Folders at all the agencies we reviewed were more stringent than those associated with the agencies' White House Liaison Offices. The controls typically included designated user lists and other procedures limiting access and disclosure of information. However, these controls do not (1) include a full accounting of intra-agency access to or disclosure of information from individual folders⁶ or (2) always ensure the timely disposition of the folders. An unauthorized White House liaison official at State had repeatedly tried to obtain the Official Personnel Folders of Bush appointees. State officials claimed that these attempts were unsuccessful, but the paperwork was incomplete in terms of identifying persons having access to Official Personnel Folders. At the other agencies we reviewed, officials said that no unauthorized searches of Official Personnel Folders were attempted or took place. However, the level of accountability for access to Official Personnel Folders varied significantly by agency.

State officials said that access to files in the Presidential Appointments Office is limited to office staff. Office officials also said that the Clinton White House liaison staff did not try to gain access to the Presidential Appointments' records on Bush appointees. However, the office does not maintain a checkout list identifying who has had access to the files.

Inadequate Controls at the State Department

Organizational Responsibilities

Within the State Department's Office of Information Services, the Records Management Branch is charged with ensuring a continuing program for the management of State's records as required by federal law, and the

⁶Agencies are required to maintain an accounting of all disclosures of information from Privacy Act systems of records except those to personnel within the agency who have an official need to know or to the public under the Freedom of Information Act.

Research and Retrieval Branch is responsible for conducting searches of official State information sources, including stored records. The Bureau of Personnel has responsibility for controls over Official Personnel Folders of appointees, as well as the files created and maintained by the Presidential Appointments Office. State's White House Liaison Office is under the direct supervision of the Under Secretary for Management.

State's White House Liaison Files

In 1975, State established a system of Privacy Act records for the files created and maintained by its White House Liaison Office. The system of records description was published in the Federal Register under State-47, "Senior Personnel Appointments Records." According to the description, records are retrievable by individual name. Officials during the Bush administration created and maintained hundreds of records on individual appointees. The records typically contained routine documentation such as resumes and biographical summaries but frequently included documents classified as confidential and secret, responses to questionnaires for sensitive positions, individual performance assessments, financial disclosure statements, and information on political contributions. Some records included the following particularly sensitive information.

- Individual acknowledgement of (1) being arrested, charged, or convicted for offenses related to drugs or alcohol; (2) having had a nervous breakdown or medical treatment for a mental condition; and (3) having membership in a club that restricted membership.
- References to prior employment in an intelligence agency or in an intelligence officer position.
- Extent of funds raised for the Bush campaign, identifying amounts by source.
- Handwritten notes indicating that an individual should not be considered for a position, was not qualified, or represented a problem because of the lack of political connection.
- Personal letters to and from George Bush, the Secretary of State, and other high ranking officials.
- Inspector General evaluations of individuals marked "personnel sensitive and not for the system."⁷

⁷22 U.S.C. 4004 states that, except when they pertain to the receipt, disbursement, and accounting of funds, such records shall be confidential and subject only to inspection by the President, the Secretary of State, employees authorized by law or the Secretary to work on such records, and congressional committees and their representatives having legislative and appropriation responsibilities for the Foreign Service.

After the presidential election in November 1992, the Bush administration's White House liaison staff at State became concerned about their records and asked State records management staff for assistance in disposition of them. After examining the files in December 1992, records management officials concluded that no specific written instructions existed on what to do with most of the records. They then drafted a disposition schedule for NARA's approval, requesting authority to destroy most of the White House liaison records after or upon a change in administration. They provided the White House Liaison Office a memorandum containing their conclusions and recommendations on how the files should be handled. They recommended that the files that contained general personnel information on individuals who submitted resumes and requests for employment and were not hired should be destroyed immediately; the files that contained administrative documents and copies of White House information be disposed of under existing disposition authorities common to most offices; and the records on political and presidential appointees be destroyed once NARA approved the disposition schedule. According to the memorandum:

... the records on political and presidential appointees should be retired. With the changeover of administration, these records should not be left in the office. Once the schedule is approved, the disposition will be applied to the retired records The schedule will be forwarded to the National Archives and Records Administration for final approval. We will retain the records that you retire until the schedule is approved.

The Bush administration's White House liaison officials told us that they destroyed the files on individuals that were not hired and retired the political appointee records, assuming that they would be safeguarded in storage until destroyed. However, as the following shows, the records were not protected.

- On January 21, 1993, 12 boxes of the Bush administration's White House liaison records were sent to temporary storage in State's records storage facility at Hyattsville, Maryland, awaiting NARA action on the proposed schedule. The record manifest identified the contents of the boxes as including files on political appointees and ambassadorial appointments by name, "Republican National Committee help" files, "White House help" files, and visa request files. The boxes contained over 800 files on noncareer Senior Executive Service, Schedule C, ambassadors, and other presidential appointees, and files labeled by country, commission, and other subject.

- On or about July 8, 1993, the Clinton White House liaison staff at State contacted research branch officials about these records. A research branch official faxed a copy of the storage manifest to State's White House Liaison Office. On July 9, the White House Liaison Office requested that all 12 boxes be returned so they could be "reorganized, incorporated, and some possibly destroyed."
- Research branch officials, who said that they routinely approve such requests if the records being retrieved had originated in the same organizational unit, transferred the 12 boxes of Bush administration records to the White House Liaison Office on or about July 13, 1993. According to the research branch official transferring the boxes, the December 1992 memorandum from records management to the White House Liaison Office on disposition of the Bush records was attached to the records manifest, but she did not read it.
- On July 17, 1993, NARA approved the disposition schedule that authorized destroying most appointee records at the end of or upon a change in a presidential administration.

On July 26, 1993, several boxes of the records that had been retrieved from storage, some containing classified documents marked confidential and secret, were found on the floor of the copier room in the White House Liaison Office during a routine security inspection. White House liaison staff said they did not know that the boxes contained classified information. A security violation was later issued to the research branch official who had erased the security classification of the documents on the records manifest before sending it to the White House liaison staff.

State's Official Personnel Folders

Controls over Official Personnel Folders at State are stringent and include procedures for restricting disclosure and access and for transferring folders. However, agencies are not required by the Privacy Act to account for the disclosure of records internally to officers and employees who have a need for the records in the performance of their duties. As a result, it is difficult to verify conclusively if controls have effectively precluded unauthorized searches or disclosures of information.

According to State documents, the White House liaison official fired for his role in the retrieval of the Bush administration's appointee records and subsequent release of information was repeatedly denied access to the official folders of those appointees because personnel officials felt that it

was not appropriate and his name was not on the authorized user list.⁸ Complete verification that access was not provided to this individual, however, is difficult because State's automated personnel system does not fully track folder access or disclosures. We asked State to identify those who had access to its folders during 1993 for several Bush appointees. State provided data that identified persons having access and indicated that only authorized personnel specialists and investigators had access. However, the data had gaps from July 3 to August 7, 1993, and from April 10 to June 15, 1993. State officials said the gaps in the records were due to either human error or reuse of the computer tapes, which erases and replaces data on them.

At State, our analysis of folders on Bush appointees included three appointed to civil service positions, including the folder for one of the appointees identified in the Washington Post article. We found that the folders on the three appointed to civil service positions were still at State in January 1994, even though all had resigned in January 1993 and the State Department's records management handbook states that they should be retired in 30 days.⁹ State officials believed that the handbook was outdated and unrealistic, and we found that other agency guidance allowed longer time frames for retirement of records. For example, the Foreign Affairs Manual states that inactive civil service folders are to be retired 1 year after separation of the employee unless requested by another agency in connection with an offer of employment. However, Office of Personnel Management officials said that State's policy for retirement of civil service folders should be consistent with guidelines of the Office of Personnel Management, which state that most folders must be retired within 120 days after an employee resigns, transfers, or retires.

Presidential Appointments Files

According to Presidential Appointments staff, their office maintains name retrievable records on individual appointees in the current administration, all appointees in the Bush administration, and some officials appointed during the Reagan and Carter administrations. We reviewed the contents of the files for several Bush appointees and found that the records included biographical sketches and numerous routine internal memorandums and press releases; letters recommending ambassadorial nominations; letters of resignation; documents on employment history,

⁸State's personnel system identifies authorized users of personnel folders by name, social security number, and organizational unit in the Department.

⁹According to the handbook, folders of separated civil service employees should be retired to the National Personnel Records Center within 30 days and foreign service administrative folders within 1 year.

financial holdings, and ethical considerations; Senate competency statements; and some limited official use and "personnel sensitive, eyes only" documents. Office officials said that access to those files is limited to office staff who are career employees. They also said that the Clinton White House liaison staff did not try to gain access to the Presidential Appointments' records on Bush appointees. We could not verify that statement, however, because the office does not maintain a checkout list identifying who has had access to the files.

Unclear and Outdated Descriptions of Records Systems

One of the underlying records management issues concerns State's descriptions of its White House liaison and personnel record systems, which are either outdated or unclear. The description of the system for political appointments was published in the Federal Register in 1975, and its long-standing policy statement that most records are to be retained no longer than 2 years after the last action taken on them has been superseded by the July 1993 disposition schedule. The 1975 description also implies that Presidential Appointments' records, which include records on all presidential and ambassadorial appointments during the Bush administration, are part of the White House liaison system. However, State's legal and Privacy Act officials said that these records are part of the agency's personnel records system,¹⁰ which includes Official Personnel Folders. They agreed that neither system description clearly identified the nature or character of those records.

Inadequate Controls at Other Agencies Reviewed

White House Liaison Records

We found no evidence that unauthorized searches of White House liaison records were attempted at the Departments of Commerce and the Interior and USAID. At Commerce and the Interior, the former Bush administration appointees said that they destroyed their liaison files prior to the change in administration, and at USAID, the former Bush administration's White House liaison officer said that the files were given to the Bush appointees. At OSD, we could not determine (1) what the actual disposition of most of the Bush administration files was or (2) if any unauthorized searches of

¹⁰Federal Register: Privacy Act Issuances, 1991 Compilation, State Department, State-31, Personnel Records.

those records took place. However, the lack of Privacy Act systems of records and/or records disposition schedules for White House liaison records substantially increases the vulnerability of such records at those agencies to unauthorized access and destruction.

Our review indicated that each agency has inadequate controls over White House liaison records they create and maintain. Most of these agencies have not identified their White House liaison records as a system of records under the Privacy Act. This is inconsistent with the act, which (1) defines a system of records as any group of records from which information is retrieved by name or other identifying particular assigned to the individual and (2) states that agencies shall publish in the Federal Register a notice of the existence and character of each system. We found that the White House Liaison Offices create and maintain records on individual political appointees that are labeled by name. In addition, of these agencies, only Commerce has a disposition schedule for its White House liaison records.

Commerce

The Department of Commerce has the largest number of political appointees.¹¹ Its liaison office is located in the Office of the Secretary. The Director of the White House Liaison Office at the end of the Bush administration destroyed the political appointee records prior to the change in administration. According to that official, the appointee records included documents such as resumes, letters of recommendation, and applications for employment. Records management officials believe that, technically, the files should not have been destroyed until specific disposition authority was received. However, they believed that NARA's general records schedule¹² for "supervisors' personnel files and duplicate Official Personnel Folder documentation" may have covered the destruction but acknowledged that use of the general schedule was "stretching it." That schedule states that files relating to an employee could be destroyed within 1 year of separation or transfer of the employee or when 6 months old in the case of copies of documents duplicated in Official Personnel Folders.

On February 2, 1993, NARA approved a revised disposition schedule that specifically identified the White House Liaison Office at Commerce as a

¹¹According to 1991 data in our report Political Appointees: 10-Year Staffing Trends at 30 Federal Agencies (GAO/GGD-93-74FS, Apr. 30, 1993).

¹²General records schedules (1) are issued by the Archivist of the United States to provide disposal authorization for temporary records common to agencies and (2) do not cover all records and must be supplemented by schedules for unique records.

separate organizational unit and the types of records it maintains. NARA received the request for the new authority from Commerce in August 1992, based on a joint Commerce/NARA review of records management in the Office of the Secretary. According to Commerce documents, the review was conducted at Commerce's request because of the historical importance of the records and because the disposition schedule had not been substantially revised since 1979. The revised schedule authorized the destruction of White House liaison records at the end of a presidential administration or when no longer needed, whichever is sooner.

Interior

At the Department of the Interior, the White House liaison officer responsible for coordinating the political appointee process is located in the Office of the Secretary. During the Bush administration, liaison functions for most appointees were handled by the Assistant Secretary for Policy Management. According to the Assistant Secretary at the end of the Bush administration, approximately 200 appointee records were destroyed because of their sensitivity. We found, however, that the White House liaison records are not identified separately or specifically in Interior's records schedule.

Records management officials believe that the agency's disposition schedule for supergrade position files and special scientific or professional position folders covers, at least in part, the White House liaison records. That schedule states that copies of documents can be destroyed when positions are abolished. However, these categories apply only to supergrade and special scientific or professional positions and do not specifically identify White House liaison records. The records management officer at the Department stated that the agency's complete records schedule is being revised and that a specific record category for White House liaison records will be established.

USAID

USAID's White House Liaison Office is in the office of the Administrator. USAID's records disposition schedule does not specifically identify the White House Liaison Office or specifically schedule the disposition of its records. Records management officials believe that sufficient authority is provided under the agency's current schedule for "records common to most offices," subcategory "office personnel files," which states that documents on individual employees should be destroyed 1 year after their separation or transfer or annually when superseded or obsolete documents are involved. A weakness in USAID's approach is illustrated by the fact that according to the former Bush administration's White House liaison officer, over 100 agency records were given to individual

The Office of the Secretary of
Defense

appointees at the end of the Bush administration, which is inconsistent with records disposition regulations.¹³

According to 1991 data in our report on 10-year staffing trends in federal agencies, OSD had the fourth largest number of political appointees. OSD has a Privacy Act system of records for its political appointees, and information is retrievable by the last name of the individual. The system description was published in the Federal Register in 1975 under Special Assistant to the Secretary and Deputy Secretary of Defense-DATSD 03, "Files of Personnel Evaluated for Non-Career Employment in DOD." However, the office has not established a disposition schedule for these records, and the actual disposition of approximately 200 files on Bush appointees could not be determined.

Before a White House liaison position was filled in October 1993, the liaison function was handled by the Special Assistant to the Secretary of Defense for Personnel. According to the special assistant during the Bush administration, she left the files on approximately 240 appointees in the office at the end of the Bush administration, even though records management officials had advised her that the documents could be destroyed.

Records management personnel told us that they did not review the files, but based on verbal descriptions of the documents, they believed that the documents could be destroyed. They believed destruction would be covered under NARA's general records schedule for "supervisors' personnel files and duplicate Official Personnel Folder documentation." They also believed, alternately, that the files could be considered as nonrecord materials and destroyed without NARA's approval. They felt that such a determination would be consistent with NARA's definition¹⁴ of nonrecord material, which states that nonrecord material includes extra copies of documents preserved only for convenience of reference and on which no administrative action was recorded or taken.

We believe that NARA's general records schedule is not sufficiently specific to ensure proper disposition of political appointee records at the end of a presidential administration. NARA officials agreed, stating that there should be an exact match of the general schedule to the records to ensure that the disposition of all records has NARA's approval. NARA officials told us that

¹³36 C.F.R. 1228.

¹⁴As defined in NARA's 1992 Disposition of Federal Records: A Records Management Handbook.

the treatment of name retrievable appointee files as nonrecord materials is inconsistent with the statutory definition of federal records.

We were able to locate some of the Bush administration files at OSD, but most had disappeared without any evidence concerning their final disposition. Current OSD officials believe that the files were destroyed as part of their routine housecleaning during the transition process.

On the basis of our findings, OSD records management officials have taken actions to improve the management and control of political appointee records. These actions include (1) publishing in the Federal Register an updated Privacy Act notice for files of personnel evaluated for noncareer employment in the Department of Defense and (2) submitting a request to NARA for records disposition authority for the noncareer appointee files.

Official Personnel Folders

At the other agencies we reviewed, officials said that no unauthorized searches of Official Personnel Folders of Bush appointees were attempted or took place. However, we could not fully corroborate those statements because the level of accountability for access to folders varied by agency. Commerce and the Interior maintained log books identifying supervisors, managers, and investigators having access. OSD maintained a log book on investigator access and a computerized tracking system identifying only the most recent access by personnel specialists. OSD officials said that based on our review, administrative officers, supervisors, and other employees are now required to sign a checkout card when a folder is retrieved, which will be maintained permanently in the folder. USAID maintained a record of reviews of folders by investigators, but there was no tracking system for other access identifying if or how many times a file had been retrieved or by whom.

Office of Personnel Management guidance states that most Official Personnel Folders must be transferred to the National Personnel Records Center within 120 days after an employee resigns, transfers, or retires.¹⁵ However, for the agencies reviewed, the folders for appointees were not always transferred within applicable time limits, which we believe increased their vulnerability to unauthorized access and disclosure. At USAID, we selected 10 Bush administration presidential appointees to determine the location of their folders. We found that although all of the appointees had resigned or retired prior to February 1993, including one

¹⁵According to USAID's Records Management Handbook, its foreign service folders should be retired within 6 months and civil service folders within 30 days.

who had resigned in 1990, all of their folders were still at USAID as of November 15, 1993.

At Commerce, the Interior, and OSD, we also found that folders were not always transferred on a timely basis. Reasons given by the agencies for delays in transferring folders included inadequate staffing to handle personnel workloads and unanticipated paperwork requirements associated with individual employees.

Lack of Governmentwide Disposition Standards

NARA has not developed governmentwide disposition standards for records relating to political appointees. As a result, each agency must schedule records independently. NARA officials are concerned that disposition practices vary significantly by agency and that some records have been destroyed without authorization. NARA officials agreed that the issuance of governmentwide disposition standards may be needed to ensure that records on political appointees are properly handled at the end of presidential administrations and to reduce the likelihood of Privacy Act violations.

In addition, the Office of Management and Budget official responsible for Privacy Act issues said that agencies need to be consistent in establishing and identifying appointee record systems covered by the act.

Recommendations

To improve controls over records on political appointees in federal agencies, we recommend that

- the Archivist of the United States issue instructions to federal agencies that propose standard disposition schedules for White House liaison records that authorize the destruction of appropriate records at the end of each presidential administration and
- the Director, Office of Management and Budget, direct agencies to identify their White House liaison appointee records as a system of records under the Privacy Act.

We also recommend that the Secretary of State (1) clarify the description of State's Privacy Act systems of records in the Federal Register to ensure proper description of White House liaison and Presidential Appointments records and (2) change the Foreign Affairs Manual and the Department's records management handbook to indicate the proper time for retirement of civil service employees' Official Personnel Folders.

Agency Comments

The Departments of State, Commerce, Defense, and the Interior; USAID; NARA; the Office of Management and Budget; and the Office of Personnel Management provided written comments on a draft of this report. Each of these agencies generally agreed with our recommendations. Their respective comments are presented in their entirety in appendixes I through VIII along with our evaluation of them.

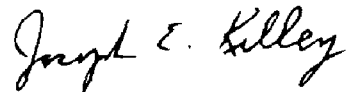
Scope and Methodology

We conducted our work in Washington, D.C., at the Departments of State, Commerce, and the Interior; USAID; and OSD. The Departments of Commerce and the Interior and OSD were selected for review because they traditionally have had a relatively large number of political appointees. Of the numerous entities within the Department of Defense, including the Army, the Air Force, the Navy, and the Defense Intelligence Agency, OSD has the most political appointees. USAID, which has had a smaller number of appointees, was included to test the adequacy of smaller agency procedures and controls.

At these agencies, we interviewed officials who (1) created or maintained White House liaison records, Official Personnel Folders, and other records on political appointees and (2) established records management policies. We reviewed pertinent documents and regulations at each agency and examined the records of the Bush administration appointees at State that were retrieved from storage. We also met with officials of NARA, the Office of Management and Budget, and the Office of Personnel Management to discuss applicable records management laws and procedures. Our review was conducted from September 1993 to May 1994 in accordance with generally accepted government auditing standards.

Unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from its issue date. At that time, we will send copies to the Secretaries of State, Commerce, the Interior, and Defense; the Administrator of USAID; the Director of the Office of Management and Budget; the Archivist of the United States; and the Director of the Office of Personnel Management. We will also make copies available to others upon request.

Major contributors to this report are John Brummet, Lynn Moore, John Townes, and Olivia Parker. Please contact me at (202) 512-4128 if you or your staff have any questions.



Joseph E. Kelley
Director-in-Charge
International Affairs Issues

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Abbreviations

USAID	U.S. Agency for International Development
NARA	National Archives and Records Administration
OSD	Office of the Secretary of Defense

Comments From the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

Washington, D.C. 20520

JUN 16 1994

Dear Mr. Conahan:

We are pleased, on behalf of the Acting Chief Financial Officer, to provide the Department of State comments on your draft report, "RECORDS MANAGEMENT: Inadequate Controls Over Political Appointees' Files," GAO Job Code 711042.

If you have any questions concerning this response, please call Ms. Susan Edmondson, State - A Bureau, at 647-3196.

Sincerely,

A handwritten signature in cursive script, reading "Carolyn S. Lowengart".

Carolyn S. Lowengart
Director
Management Policy

Enclosure:
As stated.

cc:
GAO - Mr. Moore
State - Ms. Edmondson

Mr. Frank C. Conahan,
Assistant Comptroller General,
National Security and International Affairs,
U.S. General Accounting Office.

Appendix I
Comments From the Department of State

GAO Draft Report

"RECORDS MANAGEMENT: Inadequate Controls Over Political
Appointees' Files," GAO Job Code 711042

See p. 14.

The Department of State concurs with the recommendations on page 23 that set forth appropriate steps to improve government-wide control over political appointee files. As recommended in the report, we have begun to review the schedule for disposition of Official Personnel Folders. This will ensure that our internal practices, as reflected in the Foreign Affairs Manual and other Department guidelines, are consistent with Office of Personnel Management and National Archives regulations.

See comment 1.

We believe that the current description of DOS Systems of Records in the Privacy Act Issuances 1991 Compilation correctly includes the White House Liaison records in the system for Senior Personnel Appointments records. When we next update these descriptions, however, we will include language clarifying under which system these records fall.

See comment 2.

We do not concur with statements in the report which inaccurately imply that weaknesses in State Department management and control of Official Personnel Records enabled officials to retrieve these files (see "Results in Brief" section, pp. 4-5, heading on page 7).

See pp. 3-4.

See comment 3.

The Department took appropriate action in this case. The records were subject to the Privacy Act and Federal Records Act; the Department asked NARA for a disposition schedule and retired the records pending disposition. Absent implementation of the tighter government-wide procedures recommended by this report, we are not aware of anything in either the Privacy Act or the Federal Records Act which would prevent retrieval of retired records for official purposes by the office from which they were originally retired.

See pp. 4 and 8.
See comment 4.

An unfair implication is also left by the report's statement on page 6 that the GAO team was unable independently to corroborate the assertion that the White House Liaison Office could not obtain access to official personnel folders because the paperwork was incomplete. The fact is that office procedures restricted access to career employees. Similar facts about other agency programs are reported differently: At page 15 the report states, "We found no evidence that unauthorized searches of White House Liaison records were attempted at the Departments of Commerce and the Interior and AID." The text cites "inadequate controls" over records at other agencies but there is no explanation of the report's conclusion that there were no "unauthorized searches" at those agencies, while assuming there might have been such searches at State. These unsubstantiated criticisms diminish the

See comment 5.
See pp. 9 and 10.

Appendix I
Comments From the Department of State

- 2 -

credibility of the report and detract from its overall objective of improving the general management of the program.

A uniform NARA disposition schedule or earlier NARA response to the Department's request for such a schedule (pending there for six months) may have prevented retrieval of these records. But we do not believe that the retrieval was caused by deficient State Department procedures or policies.

See comment 3.

The following are GAO's comments on the Department of State's letter dated June 16, 1994.

GAO Comments

1. We have modified our report to state that neither system of records clearly identified the nature or character of those records.
2. We have clarified our report by stating that management and control weaknesses at State enabled Clinton administration appointees to obtain the White House liaison records on Bush administration appointees.
3. Our review indicated that weaknesses in State's management and controls facilitated the improper retrieval of the White House liaison records. State records management staff had years to prepare and receive the National Archives and Records Administration's (NARA) authorization for disposition of its political appointee records. If that had been done, the records could have been legally destroyed at the end of the Bush administration and the unfortunate sequence of events that occurred would not have taken place. In addition, if information management officials had retained the politically sensitive and Privacy Act protected records until NARA's approval for disposition had been received, as had been promised, the records would not have been provided to the Clinton political appointees in the White House Liaison Office.
4. Although State's procedures are designed to limit access, the lack of a systematic means of identifying who had access to the folders makes it impossible to completely verify that all persons having access were authorized.
5. We have clarified the report to state that we found no evidence of unauthorized searches of White House liaison records at those three agencies, primarily because the Bush administration's White House liaison records were either destroyed or given to the appointees prior to the change in administration. However, the lack of disposition schedules and/or the lack of Privacy Act systems of records at those agencies substantially increases the vulnerability of White House liaison records to unauthorized access and destruction. Concerning the Office of the Secretary of Defense (OSD), we clarified our findings to state that we could not determine if any unauthorized searches of White House liaison records occurred.

Comments From the National Archives and Records Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

National Archives



JUN 2 1994

Washington, DC 20408

Mr. Frank C. Conahan
Assistant Comptroller General
United States General Accounting Office
Washington, DC 20548

Dear Mr. Conahan:

We have reviewed the draft GAO report entitled **RECORDS MANAGEMENT: Inadequate Controls Over Political Appointees Files**, and have the following comments:

The title of the report is misleading. There are inadequate controls over files relating to the appointment of political appointees, not the files of political appointees. Generally speaking, the files of political appointees are scheduled as agency records.

On page 10, in the first bullet paragraph, we suggest that the first sentence be rewritten to clarify that the records remained in Department of State custody and that the disposition of the records would be determined by NARA appraisal. We recommend substituting the following sentence:

On January 21, 1993, 12 boxes of Bush administration White House Liaison records were sent to temporary storage in the Department of State records storage facility at Hyattsville, Maryland, awaiting NARA action on the proposed schedule.

On page 22, in the section "Lack of Governmentwide Guidance," the report states that NARA has not developed any guidance for agencies to follow in establishing disposition schedules for records on political appointees. That is not quite accurate. Those files are records of an agency and must be scheduled just like any other series of records. While we have not issued guidance specifically relating to scheduling records on political appointees, we have issued detailed guidance on scheduling agency records. We recommend that the title of this section be changed to "Lack of Governmentwide Disposition Standards," and substituting the following language:

NARA had not developed governmentwide disposition standards for records relating to political appointees. Consequently, each agency must schedule such records independently. NARA officials are concerned that disposition practices vary significantly among agencies and that some records have been destroyed without authorization. NARA officials agreed that issuance of governmentwide disposition standards may be an appropriate mechanism for ensuring that political appointee records are properly handled

See comment 1.

See p. 6.

See comment 2.

See p. 14.

See comment 3.

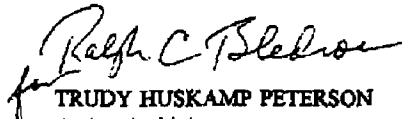
**Appendix II
Comments From the National Archives and
Records Administration**

See comment 4.

NARA supports the recommendation to develop a General Records Schedule item for records relating to political appointees, but we cannot make a positive commitment prior to conducting a survey and appraisal of such records in several agencies to ensure that a common disposition standard will be appropriate for all agencies. If we determine that agencies must individually schedule their files relating to political appointees, we will issue a NARA Bulletin providing detailed guidance to remind agencies of the requirement and procedure to schedule the records.

Thank you for the opportunity to provide comments. If you have any questions about our comments, please call Jean Keeting on 301-713-7100.

Sincerely,


for TRUDY HUSKAMP PETERSON
Acting Archivist
of the United States

**Appendix II
Comments From the National Archives and
Records Administration**

The following are GAO's comments on the National Archives and Records Administration's letter dated June 2, 1994.

GAO Comments

1. We have revised the report title.
2. The report has been modified in line with this suggestion.
3. We changed the section in our report on the lack of governmentwide guidance for agencies to state that NARA has not developed governmentwide disposition standards for records on political appointees.
4. We agree with NARA's approach if it ensures that each agency has sufficient guidance and standards to (1) properly handle political appointee records at the end of each presidential administration and (2) minimize the risk of Privacy Act violations.

Comments From the Office of Management and Budget



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

THE DIRECTOR

June 24, 1994

Mr. Frank C. Conahan
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

We have reviewed your report entitled "Records Management: Inadequate Controls Over Political Appointees Files." You recommended that OMB advise the agencies to review their records to ensure that the records of political appointees were being maintained in conformance with the requirements of the Privacy Act.

We concur in this recommendation and intend to send a memorandum on this subject to the agencies' Senior Information Resources Management Officials as soon as you indicate that the report has been publically released.

Thank you for letting us review the report.

Sincerely,

James E. Panetta

Comments From the Office of Personnel Management

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

WASHINGTON, D.C. 20415

JUN 6 1994

Frank C. Conahan
Assistant Comptroller General
National Security and International
Affairs Division
U. S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

Thank you for the invitation to comment on the draft report entitled, "Records Management: Inadequate Controls Over Political Appointees' Files."

The draft report concerned the adequacy of controls over records created and maintained on political appointees at various Federal agencies. The record subjects include Senate-confirmed Presidential appointees, noncareer Senior Executive Service, and Schedule C employees.

Under the Privacy Act of 1974, the U.S. Office of Personnel Management (OPM) manages the Governmentwide system of records OPM/GOVT-1, General Personnel Records, that includes the Official Personnel Folder (OPF). OPM also manages the OPM/GOVT-5, Recruiting, Examining, and Placement Records. We have published systems notices in the Federal Register stating the purpose of these record systems, the routine users of the records, and the proper retention and disposition of the records. The disposition and retention of records is established by the National Archives and Records Administration. While most Federal employees are covered within those two notices, not every Federal employee or applicant is. Specifically, only those employees hired in accordance with 5 U.S.C. 2105 have OPF's subject to OPM's authority and are covered by OPM/GOVT-1.

OPM agrees with the findings of the draft report regarding the importance of recordkeeping and the absolute need for a consistent approach to personnel recordkeeping for political appointees. We suggest that the Office of Management and Budget (OMB), which has

See comment 1.

**Appendix IV
Comments From the Office of Personnel
Management**

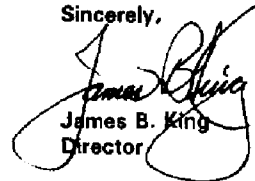
- page 2 -

Executive Branch oversight over the Privacy Act, develop and issue a model Privacy Act system notice for political appointee personnel records. Such a model notice would provide a consistent framework, while preserving the necessary flexibility for each agency to tailor its recordkeeping within the dictates of its own management environment. The agencies in turn would publish in the Federal Register an internal system notice that would pertain only to its own employees and applicants. That model notice would contain routine uses for all agencies to adopt as well as an identical retention and disposition schedule for these records. OPM would be pleased to assist in developing such a model Privacy Act system notice, if requested.

We concur in the recommendation that the Foreign Affairs Manual and the State Department's records management handbook be changed to indicate the proper time for the retirement of civil service employee OPF's. That time should be consistent with OPM's current instructions in THE GUIDE TO PERSONNEL RECORDKEEPING.

Finally, while there is no legal requirement under the Privacy Act to account for the disclosure of records made within an agency, neither is there a prohibition preventing agencies from creating a log that indicates where, when, and for what reason a record was made available to an official at the employing agency. An instruction to this effect could be issued by OMB along with a model system notice.

Sincerely,



James B. King
Director

See comment 2.

**Appendix IV
Comments From the Office of Personnel
Management**

The following are GAO's comments on the Office of Personnel Management's letter dated June 6, 1994.

GAO Comments

1. We believe that this idea should be explored by both agencies.
2. We agree that options for strengthening accountability for intra-agency access to Privacy Act protected records should be explored.

Comments From the U.S. Agency for International Development

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

JUN 10 1994

Mr. Frank C. Conahan
Assistant Comptroller General
United States General
Accounting Office
441 G Street, N.W. - Room 5055
Washington, D.C. 20548

Dear Mr. Conahan:

I am pleased to provide the Agency for International Development's (USAID) formal response to the draft GAO report entitled "RECORDS MANAGEMENT: Inadequate Controls Over Political Appointees' Files" (July 1994).

We will ensure that we comply with the necessary records management requirements, where records in fact exist. However, we are surprised that the Comptroller General would issue a report that appears to ignore a major issue about the proper storage and transmission of these records.

It is one thing to determine that a system of records exists which contains information of a personal nature on individual political appointees and that such records should be segregated and shipped to off-site storage with appropriate confidentiality. However, the Bush White House chose universally, both with the State Department and with USAID, to include all personnel information in the political appointees' personnel files -- including position descriptions, staffing patterns and other information which is clearly not only not confidential but which should have been retained to assist in the transition. Those records were not segregated as to their confidentiality nor were they marked confidential. It was impossible for the incoming administration to properly manage these records in view of the incompetency of the prior administration. It was, we believe perfectly permissible, and correct that records not marked as confidential and containing additional information about positions, staffing patterns, rationales, and the past history of positions should be reviewed in order to be segregated into an appropriate system of personnel records.

See comment 1.

Appendix V
Comments From the U.S. Agency for
International Development

-2-

We would recommend that if a system of records is to be established under GAO guidance, that this system should establish parameters for what is to be retained at the agency level. Simply declaring that all records related to potential political appointees are confidential is clearly not acceptable. Your report does not address this key issue and leaves vulnerable individuals in future administrations who may inadvertently be exposed to confidential files that are inappropriately segregated under the proposed the records system.

See comment 2.

Some of the records of a personal nature are required to be submitted to Congressional Committees, including information on campaign contributions, and the Agency must retain them to be prepared to answer related questions. Retaining such information, which is normally not necessary but which is required by your parent agency the United States Congress, seems to us to be perfectly permissible. Indeed, we believe such information, since it is only required by the Congressional Committees looking at confirmation, should in fact be returned to the individuals immediately upon cessation of their employment by the Agency in a position requiring Senate confirmation. If our assumption is not correct, we would appreciate a clarification from GAO.

See comment 2.

We believe that the attack on the integrity of the individuals coming in with the new administration is inappropriate and does not accurately reflect what occurred. We believe GAO should include specific statements that indicate that the individuals soliciting those records were soliciting them because of the inappropriateness of the combination of multiple records and the inclusion of those confidential and non-confidential records together. We believe the system of records should be structured to segregate confidential from non-confidential information, and we believe it is incumbent upon GAO to enforce this integrity of information.

See comment 1.

See comment 3.

USAID's current White House Liaison Office is not in the Office of the Executive Secretariat but in the Office of the Chief of Staff. Therefore, your report should indicate that the White House Office was in the Office of the Executive Secretariat in the Bush Administration.

Appendix V
Comments From the U.S. Agency for
International Development

-3-

We have some minor editorial changes, and we would specifically like to see the following changes made on the report:

See comment 3.

(1) Please change any reference to USAID from "AID" to "USAID."

See p. 11.

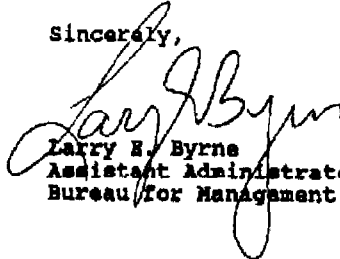
(2) Page 18, first sentence of first paragraph beginning on the page, delete "Executive Secretariat" and replace with "the Administrator."

See p. 12.

(3) Page 18, last sentence of first paragraph beginning on page, after "Bush Administration," please add "as stated by the former Bush Administration White House Liaison." (This statement was verified by telephone conversation with Mr. Lynn Moore, GAO, Evaluator-in-Charge with a member of my staff.)

Thank you for the opportunity to respond to the GAO draft and for the courtesies extended by your staff in the conduct of this review.

Sincerely,



Larry E. Byrne
Assistant Administrator
Bureau for Management

The following are GAO's comments on the U.S. Agency for International Development's letter dated June 10, 1994.

GAO Comments

1. Our separate report on the retrieval of the White House liaison files at State discusses the reasons for retrieving the records.¹ As discussed in that report, several reasons were given by Clinton White House liaison staff for the retrieval of the Bush files, including the need to learn more about the functions of the White House Liaison Office and to identify specific Bush administration appointees that may have been transferred to nonpolitical positions at State.
2. We did not attempt to determine what documents should be created or maintained in appointee files or what documents should be retained by an agency. We believe that such questions can be resolved by each agency if it (1) adequately describes its system of records for appointee files under the Privacy Act and the types of records maintained in each system and (2) prepares and receives NARA's approval for a disposition schedule that clearly states what should be done with the records when no longer needed. Concerning the appropriateness of returning certain documents to individuals upon cessation of their employment, we believe that NARA's records management handbook on the disposition of federal records provides adequate guidance on how records, nonrecord material, and other documents should be handled by agencies.
3. We have modified our report in line with these suggestions.

¹Records Management: Retrieval of State Department's Political Appointee Files (GAO/NSIAD-94-187, July 13, 1994).

Comments From the Department of Defense



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

JK



.019 JUN 1994

Mr. Joseph E. Kelley
Director, International Affairs Issues
National Security and International Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Kelley:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report entitled -- RECORDS MANAGEMENT: Inadequate Controls Over Political Appointees' Files," dated May 19, 1994 (GAO Code 711042/ OSD Case 9692).

The DoD has reviewed the draft report findings related to the office of the Secretary of Defense and concurs without further comment. The Department appreciates the opportunity to review the report.

Sincerely,

D. O. Cooke
Director

Comments From the Department of Commerce



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

JUN - 2 1994

Mr. Frank C. Conahan
U.S. General Accounting Office
National Security and
International Affairs Division
Washington, D.C. 20548

Dear Mr. Conahan:

This is in response to your request for comments on the draft GAO report on the adequacy of controls over records created and maintained on political appointees at the Department of Commerce.

The safeguarding of documents containing information covered by the Privacy Act is a high priority in the Department of Commerce. Our ability to successfully meet the requirements of the Act is evidenced by the processes and procedures your review revealed to be in place in the Department.

I fully support the recommendations contained in the draft report, as they advance compliance with the Privacy Act and improve controls of records in Federal agencies.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald E. Brown".
Ronald E. Brown

Comments From the Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUN 17 1994

Mr. Frank C. Conahan
Assistant Comptroller General
National Security and International
Affairs Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

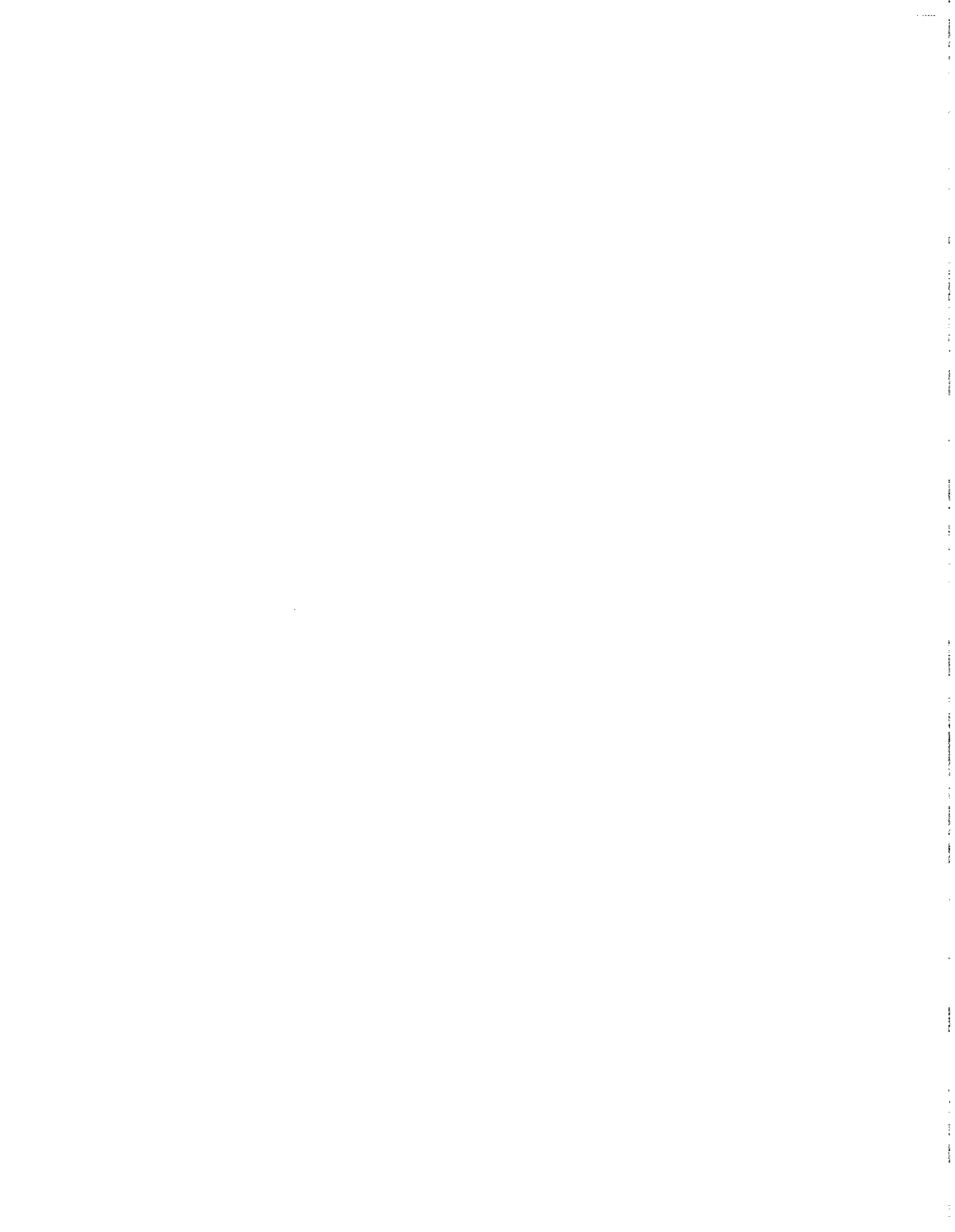
We have reviewed the General Accounting Office's report entitled, "RECORDS MANAGEMENT: Inadequate Controls Over Political Appointees' Files" (B-256931).

We agree with the report findings and, as indicated, the records schedule for the Department is currently being revised and will contain a category to specifically address White House liaison records. A copy of the revised records schedule will be provided once finalized.

If you have questions, please contact Deborah Williams, GAO Liaison at (202) 208-3963.

Sincerely,

Bonnie Cohen
Assistant Secretary for Policy,
Management, and Budget and
Chief Financial Officer



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