



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

General Government Division  
B-258383

January 26, 1995

The Honorable John M. Spratt, Jr.  
House of Representatives

Dear Mr. Spratt:

In response to your November 9, 1993, request, we issued a report today entitled Reimbursed Travel: Commerce and FTC Generally Met Requirements But Some Improvements Needed (GAO/GGD-95-32). Our report describes our review of records of federal employees' travel at the Department of Commerce and the Federal Trade Commission (FTC) that was either partially or fully paid for by nonfederal entities. Under regulations promulgated by the General Services Administration (GSA), a federal employee can accept reimbursement of travel costs from nonfederal sources, such as private companies and universities, if the purpose of the travel is related to the employee's official duties and responsibilities and if the acceptance of such travel does not present the appearance of a conflict of interest.

Overall, the records we reviewed indicated that reimbursed travel was appropriately approved and recorded at both agencies, but we made several specific recommendations to refine the approval process and improve the accuracy of travel records and reports.

When you initially requested that we review this matter, a dispute existed between Commerce and the Office of Government Ethics (OGE) concerning whether OGE should be given access to Commerce's records of reimbursed travel during its review of Commerce's ethics program. Commerce believed that OGE should not have access to travel records because GSA, not OGE, issued the travel regulations. Accordingly, you asked us to determine the implications, if any, of Commerce's denying OGE access to its records of reimbursed travel and whether OGE should have taken additional actions to resolve this dispute.

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We believe OGE's right of access to the records in question is clear. Under the Ethics in Government Act of 1978, as amended, OGE has broad responsibility and authority to develop rules and regulations related to conflicts of interest and ethics in the executive branch and to monitor agency ethics programs. Section 403 of the act directs each executive agency to comply with requests from OGE to furnish it with all information and records in the agency's possession that OGE may determine to be necessary for the performance of its duties. Since it is OGE's responsibility to monitor executive agency compliance with the statutory and regulatory requirements governing travel reimbursement from nonfederal sources, we believe that OGE is entitled to access to all records related to such reimbursed travel that an agency may possess.

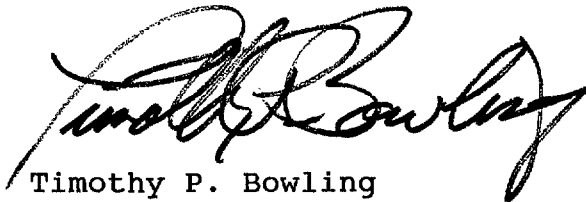
As described in our report, OGE officials told us that when Commerce denied it access to its reimbursed travel records, OGE made two oral requests for the records and subsequently sent a letter with its final report on October 15, 1992, asking that Commerce reconsider its decision. The response OGE received from Commerce's General Counsel, dated November 5, 1992, did not state that the Department had changed its position in this respect. However, on May 11, 1994, in response to an inquiry from us, Commerce's Assistant General Counsel for Administration unequivocally stated that it is the Department's position "that OGE has authority to review records relating to travel expenses accepted under the authority of the Ethics Reform Act, including supporting documents." This letter characterized the earlier dispute between OGE and the Commerce Department over access as a misunderstanding that had been resolved.

The Commerce Department is the only agency that has ever challenged OGE's right of access to reimbursed travel records. OGE could have been more aggressive in attempting to resolve the dispute over access when it arose; for example, OGE could have requested an opinion on the matter from the Justice Department. However, given the limited scope of the dispute and its subsequent resolution, we have no basis for objecting to the actions OGE took. Accordingly, our report did not address the access issue at great length. These comments are being provided because we were informed by your staff that, notwithstanding the resolution of the dispute, you continued to be interested in our assessment of OGE's access authority and its actions to resolve the dispute with Commerce.

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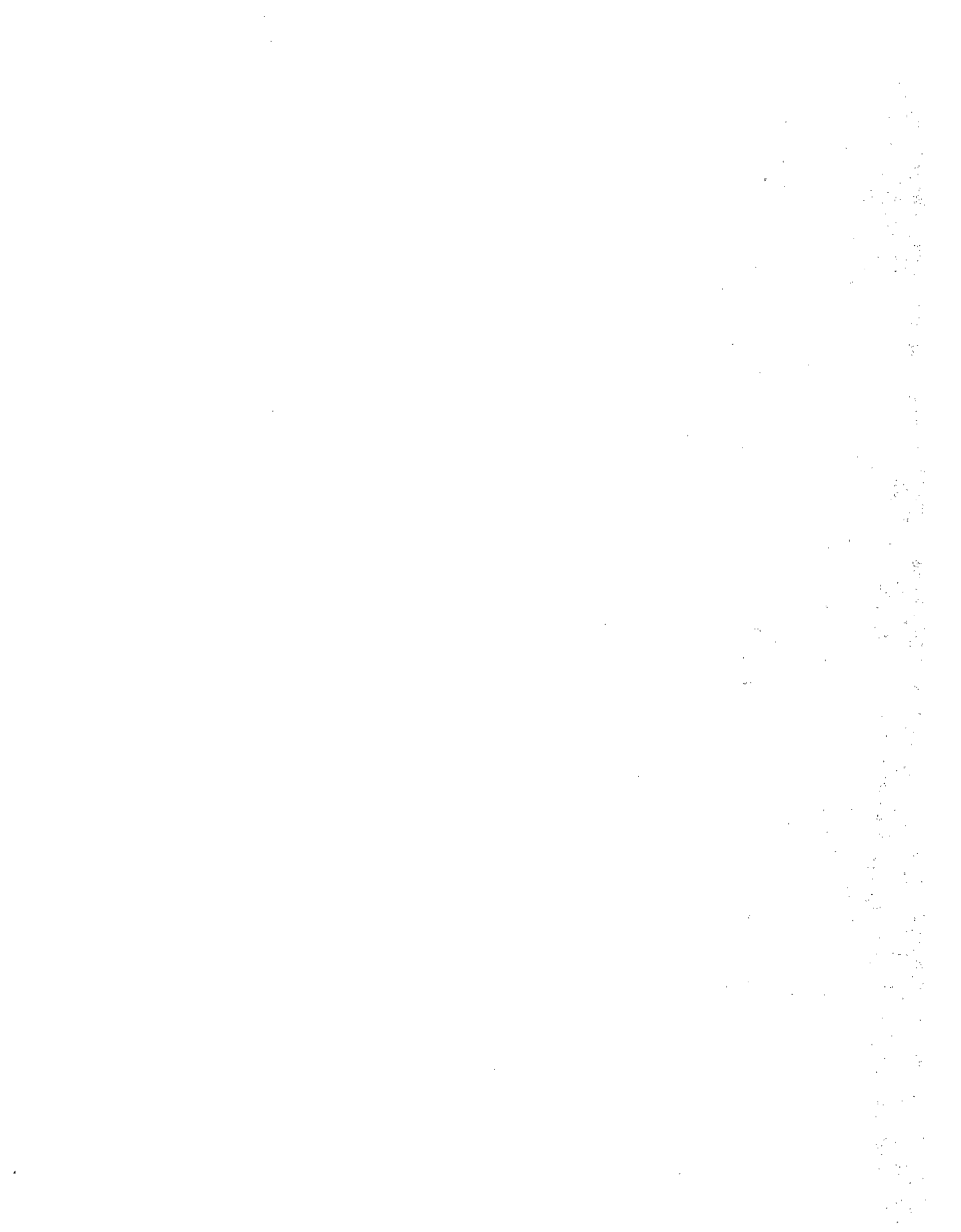
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I hope this additional information is helpful to you. Feel free to call me on (202) 512-5074 if you have any further questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy P. Bowling". The signature is fluid and cursive, with the first name being the most prominent.

Timothy P. Bowling  
Associate Director  
Federal Human Resource Management  
Issues

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