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THE WHITE HOUSE

WASHINGTON

January 30, 1984

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: CEQ Report

On December 15, 1983, Anne D. Neal copied Mr. Fielding on a memorandum she prepared for Kemp Harshman, CEQ Executive Officer, reviewing suggested changes in a draft CEQ report on problems associated with the CEQ consolidated working fund. When this issue first arose some time ago, our office directed that the matter be handled by CEQ and OA. Neal's suggestions were adopted by CEQ, and the report, with several other revisions, has been finalized. I have included a copy of the final report for the files. There is no need for action by our office, and this matter may be closed.

Attachment

FG006-06

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

(JR)

- O - OUTGOING**
- H - INTERNAL**
- I - INCOMING**
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Anne D. Neal

MI Mail Report User Codes: (A) (B) (C)

Subject: Copy of memorandum to Kemp Harshmann
CEO's proposed final report on the Council and
the consolidated working fund which the Council
manages

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code Tracking Date YY/MM/DD	Type of Response Completion Date Code YY/MM/DD
<u>CWROLL</u>	ORIGINATOR	<u>83, 12, 19</u> <u> / / </u>
<u>CWAT18</u>	<u>D</u>	<u>83, 12, 19</u> <u>S 84, 10, 11, 09</u>

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply
- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended
- FOR OUTGOING CORRESPONDENCE:**
- Type of Response = Initials of Signer
 - Code = "A"
 - Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE
WASHINGTON

7/5/83

TO: John G. Roberts

FROM: *Richard A. Hauser*
Deputy Counsel to the President

~

FYI: _____

COMMENT: _____

ACTION: _____

file - CEQ



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

June 30, 1983

MEMORANDUM FOR RICHARD HAUSER

FROM: ANNE D. NEAL
General Counsel

SUBJECT: CEQ Inquiry

On June 15, 1983, the Surveys and Investigations Staff of the House Appropriations Committee advised the Council on Environmental Quality (CEQ) by phone that it planned to investigate CEQ's consolidated working fund. The investigation was in part prompted by the House's desire to reduce the CEQ appropriation because of

serious concerns over the role and effectiveness of the Council on Environmental Quality. Specifically, these concerns relate to possible violations of general provisions in annual appropriations Acts and the Council's management of the consolidated working fund. As soon as the results of an ongoing investigations staff are available, the Committee on Appropriations will review the justification for additional funding and the need for strengthening management controls over the consolidated working fund.

*Check w/ Kbelawi:
is this most
now, w/ decision
to have it as an
appropriation item?*

Conf. Report at 623 (June 23, 1983).

The Chief of the Surveys staff advised CEQ of the investigation by letter dated June 16, 1983, and the staff commenced its review on June 17, 1983. By memorandum dated June 17, 1983, CEQ Chairman, Alan Hill, advised all CEQ staff and contractors to provide "full and complete cooperation" so that the Congressional staff could complete their report by June 23, 1983. All CEQ staff were advised to refer any questions unrelated to the consolidated working fund to CEQ's Acting General Counsel, Kemp Harshmann.*

*CEQ's General Counsel was in Russia until June 29 attending an "exchange program" on environmental law.

By letter dated June 17, 1983, Chairman Hill advised Jamie Whitten, Chairman of the House Appropriations Committee, that CEQ provided the following information to the staff:

- . all travel expense records, including travel authorizations, related vouchers, and trip reports for Council and office member trips funded from the Council's appropriation for FY 1982 and FY 1983;
- . all accounting documents including official accounting entries and records documenting the Council's FY 1982 and FY 1983 travel transactions;
- . all other working papers;
- . official copies of all interagency agreements;
- . copies of each contract;
- . a summary of each contract;
- . a 1981 report by the Comptroller General about CEQ.**

Over 2,000 pages of documents were provided to the Committee staff, many of which were xeroxed and taken back to the Hill. Apparently, the following information was also supplied:

- . funds appropriated to the Council for FY 1982 and FY 1983, including any restrictions or limitations imposed on certain expenses (i.e., travel) by the Appropriations Act;
- . cost of and nature of Council trips funded by external organizations during FY 1982 and FY 1983;
- . FY 1982 and FY 1983 budget data, including numbers of personnel requested and personnel ceilings authorized;
- . Council personnel listings for FY 1982 and FY 1983;
- . personnel data, including SF-171's of present staff; and

**This report outlined slipshod contracting practices by CEQ and held that CEQ violated Executive Order 12028 (Dec. 12, 1977) by failing to use the Office of Administration for its full administrative support needs. (See attached.)

- personnel data, including the whereabouts of Council staff who have left the Council during FY 1982 and FY 1983.

The Investigations Subcommittee also interviewed all Council members and staff. The investigation went far beyond the scope initially outlined and by letter of June 17, 1983, the Committee confirmed to Chairman Hill that the investigation had been expanded to include "operations of the Council of Environmental Quality as well as the consolidated Working Fund" for Fiscal Years 1982 and 1983.

No restrictions were established by CEQ on the investigation and at no time did CEQ have any legal representation during any of the Committee's interviews of CEQ employees or contractors. The White House Counsel's Office advised CEQ--at a minimum--to disclose no documents until after an official request from a Member. CEQ obtained such a letter on June 22, 1983, but otherwise ignored the advice and gave the Committee virtual carte blanche to review Council records.

as w/ EPA announcements

The Committee is expected to release a report later this week on the Council. CEQ believes the Committee is interested in tying their travel expenses to "political" trips and to demonstrating that the consolidated working fund has been used to augment the CEQ appropriation. Hill denies both allegations. CEQ has already been advised that it will have no opportunity to comment on the report.

I reviewed records made available by CEQ to the House Subcommittee early this week. I have not had an opportunity to see all the documents since House staff members were still looking at the documents at CEQ when I did my review. The documents reviewed and my discussions at CEQ reveal the following:

1. CEQ Chairman, Alan Hill, has utilized a Government rental car for portal-to-portal transportation since he came to the Council in 1981. The car is used for routine pick-ups and other Council duties during the day and is apparently made available to the staff. Mr. Hill claims the car is driven only to and from work, never for other personal use, and never by other members of his family. It is my understanding that Mr. Baker advised him to cease use of the car two years ago.
2. CEQ has relied almost exclusively on sole-source contracting during Fiscal Years 1982 and 1983. The legislation creating the Council exempts it from the requirement to buy needed goods by the formal advertising method of procurement.

Instead, the Council is allowed to buy its goods and services exclusively through the negotiation method. Nothing in the basic legislation, however, grants the Council blanket authority to negotiate procurement on a sole-source or non-competitive basis. Competition, even in negotiated procurement, should still be obtained to the maximum practical extent. A cursory review of financial records made available to the House investigators, however, shows that more than \$400,000 have been spent for sole-source contracts which range from environmental studies to simple clerical services. Excessive sole-source contracting was criticized in 1981 by GAO in its report to the Committee mentioned in page 2 of this memorandum and attached hereto. Practices at CEQ did improve to the extent that the Council now generally provides justifications for sole-source procurements. Nonetheless, competition is generally avoided.

One contract totalling \$33,200 was given recently to William Quimby, a friend of former CEQ council member Ernie Minor, and was paid for from the consolidated working fund. The contract price was suggested by Mr. Quimby and no other source was sought for this contract to prepare the annual report. The Chairman, Administrative Officer and Acting General Counsel could not recall any other contracts awarded to personal acquaintances of the staff or the Council.

3. There is another personnel problem at CEQ which may explode. Because personnel ceilings are to be cut by at least one for FY 1984, CEQ is now considering RIFing its administrative officers and relying solely on OA for administrative support. The current CEQ administrators are civil servants and one has more than 24 years of service. Alan Hill advised the more senior officer by letter(s) in October 1982 that he should look for employment elsewhere. The letter(s) (which I have not seen) apparently do not outline any reasons for dismissing the employee although the Acting General Counsel says that the administrator has nothing to do and performs poorly. CEQ has no performance appraisal system in force under the Civil Service Reform Act so there is no substantive documentation of anything adverse regarding the employee's performance. Several months ago, the employee appeared at CEQ with his personal attorney to advise the staff that he did not need to be RIFed. To complicate matters, the Council believes this man supplied information to the Committee. Any adverse action against him in the future could conceivably result in a "whistleblowing" allegation.

*make
certain
personnel
action
is
appropriate*

4. At least one employee, initially included on CEQ rolls, is now a contractor paid from the consolidated working fund in order to avoid CEQ personnel ceilings and to draw upon this additional source of funding. In many respects, it appears the working fund has been utilized to fund contracts for personal services which should generally be handled through regular personnel channels but which cannot be paid from the current small CEQ budget.

Chairman Hill has advised that one CEQ employee was hired at the urging of Presidential Personnel.

Acid Precipitation Task Force. Since the agencies responsible for this Task Force refused to staff it, support staff are contractors paid out of the consolidated working fund.

One of these contractors--Mr. Downey--has no college degree and is essentially doing only clerical work. Mr. Downey was a "solesource" contract recommended by a NOA employee detailed to CEQ.

5. CEQ Consolidated Working Fund. The Fund is used to support the Task Force on Acid Precipitation, a statutory entity established by P.L. 96-294 (June 30, 1980), the Chemical Substances Information Network Program, and the Global Issues Working Group of the Cabinet Council of which Hill is a member. The Fund is used for contracts and travel only. No formal guidelines have been established for handling money under the funds. To date, CEQ has simply followed the terms of interagency agreements which set out the transfer of money from one agency to CEQ and the responsibilities of the respective agencies.

The Working Fund has been used to pay for a \$1,450 travel bill for Chairman Hill on a matter relating to a Global Affairs inter-agency agreement. CEQ has its own travel appropriation, so the Appropriations Committee has questioned this use of the funds as a potential augmentation.

CEQ has also allowed contracts to be performed before money is available for the full financing of the contract via the working fund. If the funds do not come through, CEQ would have to pick up the cost, even though its budget would most likely be unable to bear such expenses. In such a case, CEQ would, at a minimum, violate the Anti-Deficiency Act.

6. There is currently no scientist on the CEQ permanent staff.
7. Former CEQ Council Member Ernie Minor was paid by CEQ for approximately 60 days while he was working at EPA as a special assistant to William Ruckelshaus. Mr. Minor was removed from the CEQ payroll as of Sunday, June 26, 1983, and is now paid by EPA.
8. Expense Approval. CEQ has a formal policy on expense approvals: Chairman Hill signs-off on all matters except his own requests which must be approved by another Council member. CEQ member, Nancy Maloley, has signatory authority for any requests related to the Task Force on Acid Precipitation. As best I could see, these practices have been followed consistently.
9. In testimony before the House Appropriations Committee earlier this spring, CEQ was criticized for circulating its annual environmental report to outside groups before publishing. CEQ maintains circulation of the Report was within its statutory responsibilities and was fully disclosed.
10. Before recent amendment of contracts, CEQ paid contractors out of the Government travel expense money. Such money should be used to reimburse Government employees only.

Comments and Recommendations

Since my review, Mr. Hill has been advised to cease use of the rental car. Kemp Harshmann, also advised me that CEQ will implement a new policy to enhance competitive procurement. Evidently, CEQ has also expressed its willingness to establish guidelines on the use of the working fund, in line with suggestions from the Committee.

There are several areas that I have not been able to investigate. Because CEQ has authority to receive outside gifts, (see sheets attached) it is conceivable that various groups may have given donations which would suggest a conflict of interest. CEQ has advised me, however, that very few donations have been received and that no such conflicts are present.

I suggest that you discuss this situation with Congressional Liaison so that CEQ is equipped to respond once a report appears. It would also be advisable to demand better management controls at CEQ.

make sure these things are done. Also: all work by A.O., on regd.