United States General Accounting Office

GAO

Report to Congressional Requesters

September 2000

FINANCIAL MANAGEMENT

Census Monitoring Board Disbursements, Internal Control Weaknesses, and Other Matters

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Abbreviations

CMB	Census Monitoring Board
FAR	Federal Acquisition Regulations
FTR	Federal Travel Regulations
GPO	Government Printing Office
GSA	General Services Administration
LCO	local census office
PES	Post Enumeration Study

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United States General Accounting Office
Washington, DC 20548

Accounting and Information
Management Division

B-285187

September 29, 2000

The Honorable Dan Miller
Chairman
The Honorable Carolyn B. Maloney
Ranking Minority Member
Subcommittee on the Census
Committee on Government Reform
House of Representatives

The Honorable Richard J. Durbin
Ranking Minority Member
Subcommittee on the Oversight of Government
Management, Restructuring, and the District of Columbia
Committee on Governmental Affairs
United States Senate

As agreed with your offices, this is our consolidated response to your individual requests regarding concerns related to the financial activities of the Census Monitoring Board (CMB). CMB began operations in June 1998 to monitor the 2000 Census conducted by the Bureau of the Census, an entity within the Department of Commerce. The CMB board consists of four members appointed by the Speaker of the House and the Senate Majority Leader and four members appointed by the President.[1] Both sides operate autonomously, have separate offices, executive directors and staff, and contract separately for legal, consultant, and other services. The combined CMB disbursed about $7.4 million from June 1998 through March 31, 2000, from its appropriated funds, and another $0.5 million from the Congressional Printing and Binding appropriation.

[1]The board refers to itself as having a congressional side and a presidential side, which we refer to throughout this report as the congressional CMB and presidential CMB, respectively. References to CMB in general apply to both sides.

As you requested, we

- obtained and reviewed information on seven specific matters contained in your requests;
- conducted an audit relating to all CMB out-of-town travel disbursements and all other financial transactions over $200 from CMB's inception in June 1998 through March 31, 2000, which resulted in our auditing about 98 percent of the dollar value of total CMB disbursements;
- reviewed CMB financial policies and practices, the internal control environments, and specific internal controls over disbursements, including those related to travel, personnel, and procurement of services; and
- identified and disclosed related-party transactions that met the criteria you asked us to use.[2]

We did not evaluate the program effectiveness of CMB, as we focused on auditing its financial activities. We performed our work from April 2000 through August 2000 in accordance with generally accepted government auditing standards. Appendix II contains further details of our scope and methodology. We requested comments on a draft of this report from CMB and the Government Printing Office. Their written responses are presented in appendixes IV and V, respectively, and are discussed in the "Agency comments and Our Evaluation" section.

Results in Brief

In general, we found little documented evidence to substantiate possible improprieties in connection with seven specific matters identified in your request letters.

- No presidential CMB funds were used to print reports for the 1998 World Exposition.
- Congressional CMB videotapes did not have a narrow political distribution.
- No CMB funds were used for political travel.

[2]For a definition of related parties, see appendix I.

- Presidential CMB contracts for studies on census undercounting were not improperly procured.
- No evidence existed that former congressional CMB employees accessed protected census data.
- Two out of 27 questions in a congressional CMB contractor focus group study made some mention of political parties.
- Some verbal confrontation occurred between a congressional CMB contractor and Bureau of the Census employees, and the contract was terminated shortly thereafter for a variety of reasons.

Our remaining efforts focused on CMB support for expenditures and an assessment of the internal control environment established to ensure disciplined financial operations. The vast majority of CMB disbursements were generally supported and related to official business. However, we found a pattern of significant CMB internal control weaknesses related to travel, personnel, and the procurement of services, some of which resulted in inappropriate and wasteful practices.

Weak internal controls allowed unreconciled payroll, benefits, and annual leave accounts; weak contract accounting; and disbursements without required approvals to pay. In addition, some CMB policies were inconsistent with federal law, such as granting unlimited sick leave and two extra federal holidays annually. More seriously, inadequate internal controls led to inappropriate practices, such as employees (1) routinely arriving late and leaving early, (2) not recording annual leave when taken, and (3) being late in paying their government credit cards for official travel or not paying them at all. In addition, for the presidential CMB, some individuals improperly used their own and other staff members' government credit cards for personal expenses, such as local restaurant bills, clothing purchases, and amusement park admission. We also found uncontrolled personal telephone usage for the presidential CMB. Additionally, we were not given key supporting documentation, such as vendor invoices and evidence that items were received for about $119,000 of expenditures, all but about $1,000 of which were related to the presidential CMB.

While weaknesses related to travel, personnel, and procurement existed for both sides, the congressional and presidential CMB operated in substantially different internal control environments. The congressional CMB made a considerable effort to establish an internal control

environment, including using written approvals, implementing recommendations based on a contract study to improve internal controls, and contracting for independent financial audits. The presidential CMB operations were primarily characterized by weak or unenforced policies, oral authorizations, and poor records management, largely due to a lack of administrative leadership.

We identified transactions involving prior business relationships among CMB officials, including employer/employee or contractor affiliations. We found 13 congressional and 11 presidential CMB related-party relationships involving about $1 million in salaries and contracts for each side. Our disclosure of related-party relationships and transactions does not imply any improprieties but is in response to your request for this information.

We are recommending a number of actions to improve CMB policies, procedures, and internal controls. We are also proposing a matter for congressional consideration to avoid future problems with board filing of financial disclosure forms. As discussed in its response to a draft of this report in appendix IV, CMB plans to implement all of our recommendations.

Background

CMB was established by the Departments of Commerce, Justice, and State, the Judiciary, and the Related Agencies Appropriations Act, 1998.[3] CMB's function is to observe and monitor all aspects of the Bureau of the Census' preparation and implementation of the 2000 Census. CMB is also to promote the 2000 Census by encouraging the public to provide full and timely responses to census questionnaires.

The legislation establishing CMB did not define its status or, with a few exceptions, specify laws that would govern its operations. In our opinion, supported by substantial precedent on similarly established boards and commissions, CMB is an agency in the legislative branch and is subject to laws generally applicable to the legislative branch except to the extent that provisions of law provide otherwise. See appendix III for further discussion.

CMB held its first meeting on June 3, 1998, and thereafter began disbursing funds by hiring staff, locating and renovating office space,

[3]Public Law 105-119, § 210, 111 Stat. 2483 (Nov. 26, 1997).

obtaining equipment and furniture, and creating a new organization from the ground up. The board consists of two members appointed by the Speaker of the House and two members by the Senate Majority Leader (the congressional CMB) and four members appointed by the President (the presidential CMB), with each side having a co-chairman. Board members are not entitled to pay for serving on the board but are entitled to reimbursement for travel expenses, including per diem when on official board business. The congressional and presidential CMB hired an executive director and staff and contracted for legal, consultant, and other services.

CMB met with Bureau of the Census officials in Suitland, Maryland, and visited many of the local census offices, which are in every congressional district in the United States. In addition to reviewing bureau plans to conduct the census and efforts to improve enumeration techniques, CMB held joint hearings in Washington and across the country. CMB obtained testimony from Bureau of the Census officials, state and local officials, and community leaders to record their observations regarding Census 2000 efforts in their areas.

In January 1999, the Supreme Court held that existing law did not authorize the use of statistical sampling for apportionment purposes.[4] Subsequently, CMB focused on an outreach program with state and local governments and community groups to identify concerns and obstacles in obtaining an accurate and complete census. A particular concern is the widely acknowledged historical undercounting of rural populations and inner city minorities. CMB findings are presented in periodic reports to the Congress, of which six have been issued, the most recent on April 1, 2000.

CMB received appropriations of $4 million for fiscal year 1998, $4 million for fiscal year 1999, and $3.5 million for fiscal year 2000. Each appropriation is available until expended. The CMB board allocated the congressional and presidential CMB $1.5 million each annually, with the balance allocated to a joint account to pay common expenses. As of March 31, 2000, the board employed 17 congressional and 14 presidential CMB staff. In addition, CMB legislation provides that it is

[4]The Bureau of the Census originally planned to statistically project a portion of the population. On January 25,1999, the Supreme Court decided in *Department of Commerce v. U.S. House of Representatives,* 525 U.S. 316, that the Census Act prohibits the use of statistical sampling in calculating the population for reapportionment of congressional districts.

considered a committee of the Congress for purposes of having CMB costs relating to printing and binding paid from the Congressional Printing and Binding appropriation.

CMB entered into an interagency agreement with the Government Printing Office (GPO) for GPO to pay CMB's bills and provide payroll, procurement, and travel services. GPO provides a monthly report of CMB disbursements for the congressional, presidential, and joint accounts. GPO charges $1,000 annually to each side for payroll processing and a fee of 6 percent of noninventory purchases. However, this agreement did not relieve the congressional and presidential CMB of the responsibility to maintain an adequate system of internal controls, approve disbursements in accordance with established polices and procedures, and maintain documentation to support disbursements. CMB legislation did not require (1) annual financial statement or internal control audits or (2) inspector general oversight to conduct audits and investigations as needed or requested.

The General Services Administration (GSA), in coordination with the Department of Commerce, was responsible for providing office space for CMB at the Bureau of the Census complex in Suitland, Maryland. CMB's enabling legislation provides that it shall cease to exist on September 30, 2001.

Seven Specific Matters

The following are our findings for the seven specific matters, which are presented as questions with responses.

1. Were presidential CMB funds used to print reports for the 1998 World Exposition?

Our review of presidential CMB disbursements over $200 did not identify any documented evidence that presidential CMB funds were used to pay for printing reports for the 1998 World Exposition in Lisbon, Portugal.

The former presidential CMB co-chairman and the presidential CMB executive director had been former U.S. pavilion officials at the 1998 World Exposition immediately before coming to CMB. The presidential CMB executive director provided invoices from a commercial business that printed the 1998 World Exposition reports at a total cost of $4,538. Initially, the presidential CMB executive director paid $1,369 of the invoices by personal check. He was later reimbursed for this amount by personal check of the former

presidential CMB co-chairman, who paid the remaining $3,169 by personal check directly to the printer.

2. Did congressional CMB videotapes have a narrow political distribution and did internal controls exist over the use of copyrighted material?

We found no documented evidence that congressional CMB videotapes produced had a narrow political distribution. We identified nine video productions with over 4,300 copies that were widely distributed to nonprofit organizations, community groups, and units of state and local government. This wide distribution included about 1,200 copies of a video on census undercounts entitled "On Every Street" featuring the congressional CMB co-chairman. While some copies of this tape were labeled "For Republican Mayors," the distribution was far wider and included community groups and others noted above.

We found that no CMB controls existed over the use of copyrighted material because CMB had not contemplated such a use. However, the congressional CMB did obtain a written release from a recording company for the use of background music for a videotape production. This release, however, was obtained after the fact.

3. Were congressional and presidential CMB travel funds used in connection with political events?

We found no documented evidence that CMB funds were used for political travel. Through March 31, 2000, we found the following:

- The congressional CMB co-chairman, who lives in Ohio, took 36 trips, including 15 to CMB offices in Suitland, Maryland, for CMB business. The remaining 21 trips to various locations throughout the country were to attend board meetings, conduct field hearings, attend conferences, meet with local government and community leaders, and participate in other CMB events.

- The former presidential CMB co-chairman took two trips, one to South Carolina and another to California, to conduct CMB field hearings. We noted that he did not claim reimbursement for all presidential CMB travel taken, although entitled to reimbursement.

- CMB staff took 2 trips to New Hampshire and 10 trips to Arizona. All trips had a stated CMB purpose to meet with local officials or to attend conferences. There was no travel to Iowa. During the 2 months before the early presidential primaries in these three states, a congressional CMB employee traveled to Arizona to meet with area complete-count committees several weeks before the Arizona democratic primary.

4. Were four presidential CMB contracts for studies on census undercounting properly procured?

We found no evidence to indicate that four presidential CMB contracts to conduct studies on census undercounting were improperly procured. The presidential CMB followed the joint CMB procurement policy for four separate contracts totaling $251,000 for studies of census undercounting.

The four separate presidential CMB contracts were as follows:

- In the summer of 1999, the presidential CMB prepared a request for proposal for an analysis of how a 2000 census undercount could affect federal funding allocations to the 50 states over the next decade. The cost of this effort was estimated to be under $150,000, which, under the CMB joint policy for procurement of temporary or intermittent services, requires that three bids be obtained with an effort to award contracts to small businesses. Due to the type of work required, three nationally known consultants were contacted. Two firms submitted written proposals, and the lowest bid, $140,000, was selected. This work was completed in November 1999 with a briefing.

- The contractor proposed a second analysis to estimate funding distortions at a cost of $50,000, which was under the $75,000 CMB policy for a sole-source procurement. The cost was later amended and increased to $70,000 because the Bureau of the Census released new data requiring recalculations. A written report was delivered by December 31, 1999.

- The contractor then proposed a third analysis of funding distortions at a cost of $30,000, which CMB agreed would be efficient to perform based on work already done. For efficiency, the results of this effort were incorporated into the written report of the second analysis.

- Finally, the contractor provided an Internet version of the study at a cost of $6,000 and printed copies at a cost of $5,000.

There is no indication that CMB anticipated having the second and third analyses performed when the first analysis was competitively awarded.

5. Were protected census data accessed by two former congressional CMB employees?

We found no evidence that two former congressional CMB employees accessed confidential census data protected by Title 13, U.S. Code.[5] All CMB employees take an oath not to disclose Title 13 information. The two former employees involved stated that their former jobs as CMB counsel and director of outreach, respectively, gave them no reason to access Title 13 data and that they had not seen any such data during their time at CMB. We obtained Bureau of the Census control logs, maintained in date order, of all CMB requests for documents including Title 13 protected data. Bureau of the Census officials identified only the two following occasions in which Title 13 data were provided to the congressional CMB before the two staff left in September 1999 to work for the Republican National Committee on redistricting issues.

- On December 11, 1998, the congressional CMB requested a Post Enumeration Study (PES) of the 1990 Census, which included Title 13 data. However, the files were incorrect when initially provided in April 1999, and the congressional CMB immediately returned the data for correction. The corrected files were provided to the congressional CMB in November 1999, 2 months after the two employees left.

- On June 24, 1999, the congressional CMB requested Title 13 data for Integrated Coverage Measurement and PES operations for six blocks in Sacramento, California, and Columbia, South

[5]Title 13, section 9, U.S. Code, prohibits (1) use of the information furnished under Title 13 for any purpose other than the statistical purposes for which it is supplied, (2) making any publication whereby the data furnished by any particular establishment or individual under Title 13 can be identified, or (3) permitting anyone other than sworn officers and employees of the Department of Commerce or agency thereof to examine individual reports. Title 13, section 214, U.S. Code, provides for a fine of not more than $5,000 or imprisonment for not more than 5 years, or both, for disclosure of census information prohibited by 13 U.S.C. section 9.

Carolina. The data were provided to the congressional CMB in August 1999, 1 month before the two employees left. These data were in preparation for a dress rehearsal comparing the 2000 Census to the 1990 Census, which according to congressional CMB officials did not involve the two former employees.

6. Were questions about political parties asked in a congressional CMB contractor focus study?

We found that 2 of 27 questions in a congressional CMB contractor focus group study mentioned political parties. In April 1999, the congressional CMB hired a contractor to conduct focus groups on hard-to-count minorities in the nation's largest public housing project in Chicago, Illinois. Two groups of 13 residents by gender were asked the same 27 questions over 2 hours to learn their attitudes and perceptions about the census. Both sessions were videotaped, and each resident received $50 to participate.

Each group was asked 27 diverse questions, including 5 questions on participants' individual goals, 4 on participant sources of information, 16 on the census, and 2 on participant centers of influence. Within the 16 census questions, the following 2 mentioned political parties:

"There are some members of the U.S. Congress who believe using people like you to help with the census count is the better way. Tell me who do you think these people might be: Democrat or Republican members of Congress?"

This question was immediately followed by

"Now if I say to you the people who believe it's better to employ you to help with the census are Republicans, what do you think?"

According to congressional CMB officials, these two questions were asked to determine how minority views of political parties affected current efforts by both parties to improve census undercounts.

7. Was there a verbal confrontation by a congressional CMB contractor, and how was the matter subsequently resolved?

We found some evidence of a verbal confrontation between a congressional CMB contractor and Bureau of the Census employees in a local census office (LCO).

CMB employees and contractors made numerous LCO visits as part of the CMB mission to monitor the 2000 Census and to identify potential problems and issues to bring to the attention of the Bureau of the Census. A congressional CMB contractor met with LCO officials during a March 22, 2000, visit to obtain information on census activities. In his report, the contractor, a former criminal investigator, observed that during a 3-hour interview, the local manager appeared evasive in responding to his questions, with repeated looks at the two area managers who were present. The contractor stated that he asked the managers to provide honest answers to his questions and, if they did not, it may not look good later. Words to that effect were also confirmed by a detailed e-mail of the visit by the LCO area manager, who referred to the 3 hours of detailed questions as "a deposition that was relatively painless, but extremely taxing."

The congressional CMB and the contractor mutually terminated their agreement effective 14 days after the visit due to a variety of reasons, including the LCO visit. Shortly thereafter, the congressional CMB adopted a conduct policy for field visits. LCO managers prepare brief reports on CMB visits and the Bureau of the Census chief of field decennial oversight and communications indicated that there were no further incidents regarding CMB visits.

CMB Disbursements

The vast majority of CMB disbursements were supported and related to official business.[6] However, we could not evaluate about $119,000 of disbursements, all but about $1,000 of which were the presidential CMB's. This was because the presidential CMB could not provide adequate supporting documentation.[7]

CMB disbursed about $7.4 million from June 1998 through March 31, 2000, from its appropriated funds plus another $0.5 million from the Congressional Printing and Binding appropriation. As shown in table 1, about half of these disbursements were for personnel compensation and benefits, with the balance for services and travel.

[6]As discussed in appendix II, we requested support for all transactions over $200, except for out-of-town travel, where we requested all support.

[7]See table 1, note c, for further description of adequate supporting documentation.

Table 1: Census Monitoring Board Disbursements From June 1998 Through March 31, 2000

(Dollars in thousands)

Purpose	Congressional	Presidential	Joint	Total incurred	Total audited[a]	Total <$200 unaudited	Inadequate support
Personnel	$1,557	$1,294	$712	$3,563	$3,563	$0	$0
Services							
Contractors	544	959	181	1,684	1684	0	0
Communications	32	43	200	275	224	11	40
GPO fees	65	67	58	190	182	2	6
Other[b]	495	127	607	1,229	1,123	43	63
Total services	1,136	1,196	1,046	3,378	3,213	56	109
Travel	236	149	41	426	421	4	1
Total CMB appropriation disbursed	**$2,929**	**$2,639**	**$1,799**	**$7,367**	**$7,197**	**$60**	**$110**
Printing & binding	302	239	–	541	531	1	9
Total CMB funding disbursed	**$3,231**	**$2,878**	**$1,799**	**$7,908**	**$7,728**	**$61**	**$119[c]**

[a] "Total audited" includes all disbursements except those that were less than $200 and those with inadequate support, the last two columns of this table.

[b] "Other" includes disbursements for items such as office supplies, furniture, space renovation, subscriptions to news publications, courier services, and overnight delivery services.

[c] Of this amount, $118,000 was for the presidential CMB. The congressional CMB was able to provide adequate support for all but about $1,000 of its disbursements. Items with inadequate support include disbursements that were missing key documentation, such as vendor invoices and evidence that items were received. This also included instances where CMB was unable to provide any supporting documentation.

Source: GPO monthly financial reports and GAO audit.

The congressional and presidential CMB each received $1.5 million annually and spent their appropriations differently. The congressional CMB employed five field staff and, accordingly, spent more than the presidential CMB on personnel. It also spent more on travel because of an outreach program with local census offices, state and local governments, and community groups. The presidential CMB spent more on contractors, including about $251,000 for four studies on census undercounting.

CMB Financial Policies, Procedures, and Internal Controls

The various financial policies, procedures, and practices CMB adopted did not always form a system of internal control adequate for guiding operations, safeguarding assets, and assuring compliance with applicable laws and regulations. We found specific internal control weaknesses in three main areas: travel, personnel, and the procurement of services. Some of these weaknesses allowed a number of inappropriate and wasteful practices, and two policies were inconsistent with federal law.

Travel

CMB is subject to the Federal Travel Regulations applicable to federal employees of most agencies.[8] We found several significant departures from these regulations particularly for the presidential CMB that included inappropriate use of government credit cards, ineligible travel expenses (such as charges for family member lodging), and no written authorizations to travel. These problems resulted in part from ineffective or missing internal controls over travel.

Government Credit Card Usage

Internal controls over the use, payment, and monitoring of credit cards for official government travel were absent, leading to some abuses by both sides of CMB. Based on CMB requisitions, GPO issued these cards to selected CMB board members and employees, who are personally responsible for their prompt payment and use for official purposes under the master agreement between the credit card company and GSA which represents the federal government. The joint CMB travel policy specifies how government travel credit cards are to be used and that delinquencies are to be monitored by the executive directors.

We found that several employees did not pay amounts when due, resulting in accounts up to 7 months in arrears. Payment delays can cost

[8]CMB is subject to travel and subsistence allowances applicable to federal employees of most agencies prescribed pursuant to 5 U.S.C. Chapter 57, Subchapter I. The Federal Travel Regulations (FTR), 41 C.F.R. Chapter 301, prescribed by the General Services Administration pursuant to 5 U.S.C. § 5707, provides the regulations implementing subchapter I. Subchapter I of Chapter 57 provides authority for payment of the expenses of employees traveling on official business, including travel, subsistence (and per diem), and mileage allowances. It includes 5 U.S.C. §§ 5702 and 5703, referred to in the CMB statute as applicable to members of the board, providing for per diem and also travel and transportation expenses applicable to experts, consultants, and individuals serving without pay.

the government revenue under the master agreement.[9] Cardholder accounts for one congressional CMB employee and one presidential CMB employee totaling over $5,000 were written off by the credit card company even though, from the start of the CMB through March 31, 2000, the two employees were each reimbursed over $11,000 for travel expenses. While the congressional CMB employee's balance remains unpaid and she is in the process of establishing a repayment agreement, the presidential CMB employee paid her entire amount due by April 2000.

Government credit cards are to be used only for expenses incurred in conjunction with official travel, a restriction that was included in the CMB joint travel policy. However, we noted over $7,500 of improper charges by two presidential CMB employees. This included the executive director from August 1998 into January 1999 and the same presidential CMB employee whose charges in June 1999 were later written off by the credit card company. Both employees used the card for personal expenses such as (1) hotel rooms while on annual leave, (2) local restaurants, (3) clothing stores, (4) mail order businesses, or (5) amusement park admission. On January 6, 1999, the former presidential CMB director of operations noted the abuses listed above and informed the presidential CMB executive director. On January 8, 1999, the presidential CMB executive director's credit card was canceled.

From July 1999 through July 2000, the presidential CMB executive director improperly used three other employees' government credit cards for CMB business charges and for about $4,500 for personal travel and local restaurant bills. The presidential CMB executive director promptly paid these charges and the charges to his own credit cards and did not seek reimbursement from CMB for personal charges. However, this use violates the cardholder agreements and CMB's joint travel policy, which states that the card may be used only by the cardholder.

Other Ineligible Travel Charges

We found several other ineligible travel charges relating to the presidential CMB.

[9]The credit card company can write off any cardholder accounts over 180 days late and any amounts written off are applied as a reduction of the net refund GPO receives based on a percentage of all credit card volume. The credit card company notifies credit agencies of the bad debt and can turn the account over to a private collection agency. Any amounts recovered by the collection agency are remitted to the credit card company after deduction of a substantial fee for collection.

- Lodging costs were left on a government travel credit card of a presidential CMB employee who had reserved hotel rooms on behalf of a presidential CMB board member and his staff and family for two trips to Washington, D.C., in March 2000. These costs, totaling $5,882, were paid for by CMB and included $1,708 for six nights for a second hotel room and other charges for the board member's family. In addition, for the same trip, this board member erroneously received a separate reimbursement of $1,346 in May of 2000 from CMB (approved by the executive director) for the hotel and telephone calls that had been paid for by the CMB employee who made the reservations. CMB reimbursed that employee and, after we discovered these errors, billed the board member. On August 28, 2000, CMB was paid for both the erroneous reimbursement and family charges. According to CMB and the board member's staff, these errors were the result of a misunderstanding, and the board member was not aware of the errors.

- In two instances, a presidential CMB employee charged hotel restaurant bills to her room and obtained reimbursement for the entire hotel bill in addition to requesting full per diem for meals. In another instance, this same employee paid for a meal for 10 individuals and charged the cost to her hotel bill. The employee obtained reimbursement for the entire hotel bill and also requested a separate reimbursement for the meal. The above errors resulted in an overpayment of $402 to the employee, which we brought to the attention of the presidential CMB. The employee reimbursed CMB with two separate checks in August 2000.

Inappropriate usage of credit cards and an ineffective review of these disbursements contributed to these ineligible expenses not being detected.

Travel Authorizations

For the presidential CMB, we found no evidence of authority to travel. According to the presidential CMB executive director, such approvals were oral. This practice is contrary to the CMB joint travel policy which requires that a written memo or CMB travel order (1) be issued before any expenses are incurred, (2) specify the points of travel, purpose, and estimated costs, and (3) be signed by the executive director. This practice is also contrary to the *Standards for Internal Control in the Federal Government*, which emphasizes that appropriate authorization of transactions is needed to ensure that only valid transactions occur. The lack of written authorization increases the risk of transactions that improperly commit government resources. Further, for the presidential CMB, we found two trips taken by individuals that were not CMB board members, employees, consultants, or witnesses that were not approved

in advance in writing by the co-chairman as required by the joint travel policy.

Travel Advances and Reimbursements

For the presidential CMB, we found that some travel advances were outstanding from 1 to 3 months before a trip was taken, and travel reimbursement requests were frequently submitted over 30 days after the trip was completed. Specifically

- The presidential CMB executive director received most of the advances on the presidential CMB after his government credit card was canceled. Two of the advances (one to the executive director for $750 and another to an employee for $500) were provided for trips that were canceled. In both instances, CMB was not repaid until 2 months later.
- In June 1999, another employee had a travel advance for $357 that exceeded trip expenses by $56 that had not been repaid until we noted it. The employee repaid CMB in August 2000.
- The congressional CMB provided two travel advances to individuals invited to attend an undercount summit. The congressional CMB did not require these two individuals to submit travel expense reports when their travel was completed, nor were they required to submit receipts. As a result, these two travel advances of $199 each remain unliquidated.

The CMB joint travel policy provided no guidance on travel advances and their timely liquidation. If the advance is not paid back promptly and the trip was not taken, advances result in an interest free loan and a potential lack of accountability over assets, as discussed in *Standards for Internal Control in the Federal Government*. Additionally, CMB joint travel policy states that reimbursements requests "should be submitted as soon as possible following the completion of a trip." However, the policy does not specify any maximum number of days for doing this, resulting in untimely execution of transactions and outdated financial information.

Personal Side Travel

For the congressional CMB, we found personal side trips that were inconsistent with the joint travel policy. While the policy allows personal side trips, employees may not use a government travel request form or government credit card to pay for transportation, and a government rate may not be not be used for travel expenses. Contrary to this policy, the congressional CMB allowed employees to make personal side trips at government rates while traveling on official business as long as they (1) prepared an analysis showing that the total airfare, including the personal side trip, did not exceed the airfare of the

official trip and (2) obtained advance permission from the executive director.

We identified one employee who took 27 personal side trips.[10] Also, contrary to the CMB joint travel policy, a government credit card was improperly used to pay for the trips at a government rate. Further, the employee prepared the above analysis and obtained executive director approval in advance for only 11 of these trips. We reviewed evidence that several of the personal side trips for which advance approval was not obtained resulted in a cost of about $400 to the federal government.

Policy on Use of Travel Promotional Awards

The CMB joint travel policy states that free travel, mileage, discounts, upgrades, and other travel promotional awards may be used at the discretion of the members and employees of CMB. While the policy states that official use is encouraged, it is unclear whether personal use of these awards is prohibited. Ample legal guidance concerning employee use of frequent flyer mileage credits, bonus tickets, and other similar promotional materials received for official government travel exists to establish that these types of travel awards belong to the federal government and may not be retained by the government employee for personal use.[11]

Recommendations

We recommend that the CMB board

- augment the joint travel policy to address the use of travel advances and specify that requests for travel reimbursements are to be submitted within a certain number of days after the trip is completed and
- amend the travel policy to provide that travel promotion items, including frequent-flyer mileage, accrue exclusively to the government.

[10]During these personal trips, there were 8 workdays for which no leave was recorded on the office records (as discussed later in "Annual Leave Accounting").

[11]See Federal Travel Regulations, 41 C.F.R. Part 301-53, and Comptroller General decisions B-199656, Jul. 15, 1981; and 67 Comp. Gen. 79 (1987). Further, in 1994, the Congress enacted section 6008, Pubic Law No. 103-355, 108 Stat. 3367 (5 U.S.C. § 5702, note), directing GSA to issue guidelines to agencies to promote, encourage, and facilitate the use of frequent traveler programs offered by hotels, airlines, and car rental vendors by federal employees traveling on official business. This was done for the purpose of realizing to the maximum extent practicable cost savings for official travel. Section 6008 provides that any awards granted under a frequent traveler program that accrued through official travel "shall be used only for official travel."

We recommend that both executive directors monitor government credit card usage and report delinquencies, as well as any personal use of the cards, to the co-chairmen as required by the joint travel policy.

We recommend that the congressional CMB executive director enforce the CMB joint travel policy on personal side travel.

We recommend that the presidential CMB executive director enforce the joint travel policy requiring a written memo or CMB travel order for all travel, including written approval by the co-chairman for travel by anyone other than a board member, employee, or witness.

As discussed in its response to a draft of this report in appendix IV, CMB plans to implement all of our recommendations.

Personnel Matters

CMB legislation provides that the board is exempt from certain provisions of federal personnel law governing appointments and pay.[12] Therefore, CMB can hire whomever it wants and pay that person accordingly. However, this does not exempt CMB from other areas of federal personnel law, such as the provisions of the Annual and Sick Leave Act, applicable to most federal employees.

We identified time and attendance abuses, unreconciled payroll and benefits, and a lack of employee evaluations. Although the congressional and presidential CMB adopted policies and procedures for personnel, we noted instances in which they were not followed or areas where internal controls were weak.

Time and Attendance

For both sides, we found employees arriving late and leaving early, inaccurate annual leave accounting, and sick leave and other leave issues.

[12]CMB legislation provides that subject to such rules as the board may prescribe, each executive director may appoint and fix the pay of personnel and procure temporary and intermittent services under 5 U.S.C. § 3109(b). In addition, CMB employees can be appointed without regard to the provisions of Title 5 U.S.C. governing appointments in the federal competitive service and be paid without regard to federal pay provisions of 5 U.S.C. chapter 51 and chapter 53, subchapter III.

Work Schedule

In Part I of its policy manuals, CMB adopted official office hours of Monday through Friday from 8:30 a.m. to 5:30 p.m. with 1 hour for lunch, resulting in an 8-hour workday. However, during the 10 weeks we were at CMB, from June through August 2000, we observed and were told in at least five employee interviews that CMB personnel frequently arrived late and left early without charging leave. On many days, the building services staff opened the office for us at 8:30 a.m., and usually only a few employees remained at 5:30 p.m. For example, we observed one employee who arrived after 10 a.m. and left before 5 p.m. on many occasions. This practice, which results in less than 8 hours worked, violated CMB policy manuals and does not exemplify good management of human capital.

A contributing factor to this problem is that CMB staff are not required to maintain time sheets, and all salaried employees are presumed to have worked 80 hours in a biweekly pay period unless they inform their supervisor otherwise. Time sheets would have greatly increased accountability. An employee's signature on a time sheet attests that his or her time and attendance is correct, and a supervisor's signature attests to a review and approval.

Annual Leave Accounting

We found weak internal controls and poor accounting by CMB regarding annual leave. The CMB jointly adopted the federal government policy on earning and taking annual leave in accordance with the Annual and Sick Leave Act.[13] GPO records annual leave information that is provided monthly by CMB. However, we found that CMB was not reconciling its leave records with GPO. Prudent financial management practices call for an entity to reconcile its balances monthly. With timely reconciliations, the following differences could have been detected and corrected earlier.

- For congressional CMB employees, GPO records show charges of annual leave usage of three employees that were 24 hours (7 percent)

[13]Under 5 U.S.C. § 6303, employees are entitled to annual leave with pay accruing in specified amounts for each full biweekly pay period based on their years of service. Additionally, upon separation from federal employment, an employee with accrued annual leave is entitled to a lump sum payment for the leave.

less than that on CMB's records, and charges of three employees were 40 hours (15 percent) more when compared to CMB's records.

- For the presidential CMB, GPO records show charges of annual leave usage of 14 employees that were 566 hours (31 percent) less than those on CMB's records, and charges of 3 employees that were 40 hours (13 percent) more when compared to CMB's records.

For many presidential CMB employees, we found long time lags between when annual leave was taken and when GPO records reflected that fact because CMB did not promptly provide information to GPO. Moreover, GPO provided an annual printout of leave balances for reconciling purposes, but we found the above errors had not been detected or corrected by CMB.

Leave accounting problems contributed to errors in several final paychecks for employees departing CMB, including the following.

- A former congressional CMB employee, who had been advanced 4 hours of annual leave, left CMB without having $142 appropriately deducted from her final paycheck.

- Two former presidential CMB employees who had been advanced 28 hours and 12 hours of annual leave left CMB without having $470 and $258, respectively, appropriately deducted from their final pay, while another employee was not paid $633 for unused annual leave.

The operating environment was conducive to taking but not charging annual leave. Although we could not determine the extent to which this was occurring, we did identify two instances when staff were on personal business and did not charge annual leave:

- For the congressional CMB, one employee had taken 27 personal side trips in connection with official travel (discussed earlier in this report); during these personal trips, there were 8 workdays for which no leave was recorded on the office records. Later, the CMB comptroller informed us that 7 of those workdays should have been recorded as personal leave[14] days and 1 day should have been charged as annual leave.

[14]Personal leave is similar to compensatory time and is subject to the discretion of the executive director.

- For the presidential CMB, we found that the executive director was frequently out of town on non-CMB business that included 29 trips to Tampa, Florida. According to the presidential CMB executive director and other evidence obtained, these trips were primarily to care for a family member. For these trips, we identified 12-1/2 days that were not charged to leave. Later, the executive director represented to us that 8 days should have been recorded for family sick leave, 1 day for personal leave he awarded himself, and 3-1/2 days as annual leave. On September 20, 2000, the presidential CMB provided adjustments to GPO to correct the executive director's leave records, leaving him with a negative leave balance of 4 hours.

Unlimited Sick Leave Policy

CMB adopted an unlimited sick leave policy that was not consistent with federal law. Under the Annual and Sick Leave Act, a federal employee is entitled to sick leave with pay that accrues on the basis of one-half day for each full biweekly pay period. Unused sick leave accumulates for future use. The statute establishing CMB does not exclude CMB from the Annual and Sick Leave Act. The act has long been applied to employees of temporary commissions in the legislative branch whose members are appointed by the President and members of Congress. Therefore, the executive directors and the employees they appoint are subject to the Annual and Sick Leave Act and its sick leave provisions.[15]

In addition, we found extensive use of sick leave in the presidential CMB. Its average recorded usage of sick leave for calendar year 1999 was 17.8 days, which is 4.8 more days than an employee accrues in a year. Although we could not determine the number of sick days, if any, that were not recorded, we were told in employee interviews that many presidential CMB staff members were frequently out sick.

[15]See 59 Comp. Gen. 31 (1979). The act does not apply, however, to CMB board members, who serve only intermittently, and experts and consultants serving intermittently (without a regularly scheduled tour of duty). The act excludes part-time employees who do not have an established regular tour of duty. 5 U.S.C. § 6301(2)(ii). See B-236241, Feb. 25, 1991; and B-194021, Feb. 11, 1980. Compare 63 Comp. Gen. 507 (1984).

Other Leave Matters

Two Extra Holidays. CMB granted two federal holidays in addition to those authorized by law. Federal law provides for 10 named annual federal holidays.[16] Part II of the CMB policy manuals approved by the board on November 23, 1998, lists the federal holidays that CMB will observe. While that list includes the 10 holidays prescribed by federal law, it adds the day after Thanksgiving and the day before Christmas as paid federal holidays.

Personal Leave. CMB adopted a policy allowing personal days off, or personal leave, at the discretion of each executive director, to compensate employees for extra hours worked.[17] While this policy is reasonable in substance, we found several examples in which there was inadequate documentation over the granting of personal leave.

One congressional CMB employee was awarded a total of 23 personal leave days during 1998 and 1999 as compensation for travel days occurring on weekends. However, as previously discussed (see "Annual Leave Accounting"), this individual had also taken 27 personal side trips while on CMB business travel and, as discussed below, had been inappropriately awarded military leave. Another congressional CMB employee was awarded a total of 18 personal leave days during 1998 and 1999. We found minimal documented justification for these two individuals to receive the substantial number of personal leave days that they were awarded.

In addition, the presidential CMB executive director granted himself 7 days of personal leave during 1998 and did not justify in writing any corresponding time worked. This included December 30, 1998, when he called the CMB office from Florida while on non-CMB business to close the office for New Year's Eve, thus granting himself an additional personal leave day rather than charging annual leave. Presidential CMB

[16]Title 5, U.S.C., Section 6103(a) provides federal holidays for New Year's Day, January 1; Martin Luther King, Jr.'s Birthday, the third Monday in January; Washington's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25.

[17]This policy was adopted because CMB did not believe that it was subject to other provisions of Title 5, such as Chapter 63 on other compensated leave.

leave records did not show the granting of a personal day for December 31, 1998, for any employees.

Military Leave. A congressional CMB employee, who was a member of the Naval Reserve, attended reserve unit inactive duty training before October 5, 1999, for which CMB granted him 8 days of paid military leave from his CMB position, as well as 2 personal days.[18] Both CMB policy manuals provide for military leave by stating that staff members on active duty are allowed paid military leave that does not count against annual leave, which is consistent with federal law. However, since this duty was *inactive* duty training, the employee was not entitled to military leave for these days and should have charged annual leave or leave without pay under CMB policy and federal law.[19] Effective October 5, 1999, federal law was changed to allow inactive duty as an authorized use of military leave.

Payroll and Benefits Reconciliation

CMB relied on GPO to correctly pay employees, calculate fringe benefits, and charge expenses incurred to CMB's appropriation without comparing this activity to its own records. Prudent financial management practices call for an entity to reconcile its financial records with those of entities with whom they have financial relations to reduce the risk of errors. As we performed our audit procedures, we found uncorrected payroll errors. For example, GPO overcharged the congressional CMB about $300 of payroll for one employee and the presidential CMB $3,110 of payroll for five employees, although, in all cases, the employees were correctly paid.

[18]These 2 personal days are part of the 23 days discussed for this employee in the "Personal Leave" subsection of this report.

[19]Under 5 U.S.C. § 6323(a), a federal employee who was a member of the reserve of an armed force or the National Guard accrued 15 days of leave with pay from his or her civilian position per fiscal year that he or she was entitled to use for "active duty" training (or field or coast defense training under 32 U.S.C. §§ 502-505, applicable to the National Guard). This leave was not available for a reserve member to use for *inactive* duty training periods, such as drills. See e.g., Comptroller General decisions B-202564, July 31, 1981; and B-187704, May 6, 1977. Federal employees covered by the military leave provisions of 5 U.S.C. § 6323 are "employees" as defined by 5 U.S.C. § 2105. 5 U.S.C. § 6323(a)(1). CMB employees are included within this definition, as explained above regarding the Annual and Sick Leave Act. Section 1106 of the National Defense Authorization Act for fiscal year 2000, Public Law No. 106-65, 113 Stat. 512, 777, amended 5 U.S.C. § 6323(a) to include inactive duty training as an authorized use for military leave; however, this provision does not apply to inactive duty training performed before October 5, 1999.

Charges for employee benefits were handled on an estimated aggregate basis throughout the year rather than calculating actual charges by pay period. GPO charged CMB an estimated rate of 25 percent of payroll based on standard percentages.[20] While this appeared reasonable on an interim basis, we found no indication that the charges were validated at least annually to reflect the actual costs paid by GPO and that balances in the appropriation account were appropriately adjusted. Without reconciliation, CMB cannot be assured that it is not being undercharged or overcharged by GPO for employee benefits.

Employee Evaluations

We found that of the employees that had been employed at CMB for at least 1 year, 11 congressional CMB employees and 4 presidential CMB employees had not received written performance evaluations. The preparation of written performance evaluations would support merit pay increases and termination decisions.

Recommendations

We recommend that the CMB board

- amend the unlimited sick leave policy to conform with federal law by providing that 4 hours accrue per biweekly pay period and
- amend its holiday policy to conform with federal law by eliminating the two extra holidays.

We recommend that both executive directors

- enforce Part I of the policy manual that official office hours apply to all employees unless an alternate work schedule is approved in advance by the executive directors,
- reconcile CMB records of employee annual leave balances with GPO summary reports at least monthly,
- instruct staff to record all leave taken,
- reconcile CMB and GPO records on payroll and benefit costs on a regular basis, and

[20]These include FICA tax match, Medicare percentage, Thrift Savings Plan match, and the federal portions for health insurance and basic life insurance.

- prepare performance evaluations for all employees at least annually.

We recommend that the presidential CMB executive director review sick leave and other leave taken to ensure that extensive use of sick leave is appropriate and documented.

As discussed in its response to a draft of this report in appendix IV, CMB plans to implement all of our recommendations.

Acquisition and Payment for Services

As a legislative branch entity, CMB is exempt from most of the procurement rules that guide the executive branch, such as the Federal Acquisition Regulations. Nevertheless, as the *Standards for Internal Control in the Federal Government* emphasizes, to account for and safeguard the use of federal resources, federal entities should have good internal controls, such as managerial approvals and authorizations, accountability for resources and records, and appropriate documentation of transactions. Although the congressional and presidential CMB adopted joint policies and procedures for the procurement of temporary and intermittent services,[21] and separate policies and procedures on purchasing supplies, we noted instances in which they were not followed or areas in which internal controls were weak. These weaknesses resulted in wasteful expenses for telephone use, weak contract accounting, and lack of approvals to pay invoices exceeding certain dollar amounts. For the presidential CMB, we also noted some weaknesses in controls over property.

Telephone Use

Following are examples of wasteful expenses for telephone usage resulting from ineffective internal controls.

- The use of cell phones was extensive, with some individuals using 2,300 minutes a month, resulting in excess minutes over the monthly plan, at costs ranging from $353 to $548.

- Some cell phones with 500 to 1,000-minute plans costing over $50 monthly were not used at all. With better controls, CMB could have

[21]CMB legislation provides that subject to such rules as the board may prescribe, each executive director may procure temporary and intermittent services under 5 U.S.C. § 3109(b). Other types of procurements would be subject to the advertising requirements of 41 U.S.C. § 5 unless the procurement was less than $25,000 or otherwise exempted. We did not find any procurements subject to 41 U.S.C. § 5.

assigned these unused cell phones to employees who exceeded their monthly plan minutes.

- Cell phones and pagers were provided to all employees who requested them regardless of whether there was a valid business need.

We found several other issues related to telecommunications that were specific to the presidential CMB, including the following.

- In practice, based on interviews with staff and our review of detailed invoices, unlimited personal telephone calls were allowed, with only three presidential CMB personnel providing reimbursement for personal calls. We noted numerous long distance and local personal calls on cell phones on weekends, holidays, and evenings.
- Prepaid telephone cards purchased for about $800 were not controlled by person or use.
- Extensive hotel telephone charges as high as $400 for one trip were made when a cell phone or prepaid telephone card could have been used.

Contract Management

CMB contracting procedures were inadequate. Some contractors worked months without written contracts, particularly in 1998 when CMB began operations. The lack of a written contract with terms and conditions exposes CMB to potential contract disputes. We also noted instances in which payments exceeded the maximum amount of the contract or contractors were paid for services rendered after the contract period without a written modification. Although CMB used GPO to procure goods and services through September 30, 1998, CMB cited GPO procedures on contracts and purchase as cumbersome and subsequently conducted its own contracting.

Approval to Pay

CMB did not consistently follow its policies on approvals to pay for purchases. CMB written procurement polices require its executive directors to approve payments exceeding $1,000 and $750 for the congressional and presidential CMB, respectively. For payments under these thresholds, the director of operations or finance for the congressional and presidential CMB, respectively, must approve the payments. For the congressional CMB, we found written evidence of executive director or designated staff approval for all but five disbursements totaling about $3,000. For the presidential CMB, we found written approval for all payments except for about $46,000 of the $118,000 of disbursements with inadequate support. Lack of written

approvals increases the risk of paying amounts prematurely or paying amounts that should not have been paid at all.

Accountability for Property

Because of weak internal controls over property, the presidential CMB was missing a laptop computer and three cell phones were indicated as lost, at a cost of about $2,800. The *Standards for Internal Control in the Federal Government* specifies that physical control over vulnerable assets must be established to ensure that they are secured and safeguarded. The lack of this control can lead to the risk of loss or unauthorized use of these assets. The presidential CMB did not always record property movement or transfers in its records, which contributed to its difficulty in determining who had what property.

On April 18, 2000, GPO took a physical inventory of CMB property (excluding cell phones) and accounted for all recorded property except four laptop computers. After much research, the presidential CMB was able to account for three laptops. However, it was unable to account for the remaining laptop computer, which according to its records was assigned to a former employee. In addition, the presidential CMB executive director stated that for the three lost cell phones, he misplaced one, broke another, and the third was reported as stolen in the Tampa airport.

Recommendations

We recommend that both executive directors

- improve contract accounting to require that contracts are promptly written, contract activity is monitored, and contracts are modified before contract amounts or dates are exceeded,
- adhere to CMB written procurement polices on approval of purchases and payments over established dollar limits, and
- evaluate office telecommunications use and adopt a written policy on cell phone use.

We recommend that the presidential CMB executive director improve accountability over property by maintaining accurate records of equipment by GPO property tag and serial number, having all employees sign for equipment such as laptop computers, cell phones, and Palm Pilots, and conducting periodic physical inventories.

As discussed by CMB in its response to a draft of this report in appendix IV, CMB plans to implement all of our recommendations.

CMB Internal Control Environment

Our *Standards for Internal Control in the Federal Government* emphasizes that a positive internal control environment provides discipline, structure, and a climate that forms a foundation for effective internal controls.[22] Our work has shown that the lack of this discipline and climate affects the quality of internal controls and leads to the risk of improper behavior.

Although specific weaknesses relating to travel, personnel, and the procurement of services were noted for both components, the congressional CMB made a considerable effort to establish an internal control environment that provided a foundation and tone of discipline and structure. This effort included use of written approvals, implementing recommendations based on a contracted study to improve internal controls, and contracting for independent financial audits. We found a comparatively weak internal control environment for the presidential CMB, as indicated below.

Lack of Administrative Leadership. We found that many of the presidential CMB executive director's own actions were not conducive to fostering a positive control environment. This contributed to a weak administrative management environment and poor employee attendance.

No Evidence of Authority to Travel. The CMB joint travel policy requires written travel orders and approvals. According to the presidential CMB executive director, authority to travel was given orally, without documentation of dates, location, purpose, and estimated cost. Without written approval for travel, there is no written evidence that travel was authorized for official purposes or that advance approval was obtained for amounts that exceeded published government lodging rates, which, for hotel charges, frequently occurred.[23]

Excessive Reliance on GPO. The presidential CMB depended almost entirely on GPO to correctly handle personnel matters, disburse funds, and charge expenses. No record of financial disbursements sent to GPO

[22]GAO/AIMD-00-21.3.1, Nov. 1999.

[23]While the congressional CMB also frequently exceeded published government lodging rates, we found documented evidence of the executive director's advance approval.

for payment was maintained and reconciled monthly with GPO; thus, there was no assurance that payments were made as intended.

Poor Records Management. Personnel and contractor files and invoices to support disbursements were in disarray, making it very difficult to locate documents. The presidential CMB relied heavily on GPO to maintain the support for its disbursements and could not find many original documents supporting disbursements, such as vendor invoices, credit card statements, and evidence that items purchased were received. In many instances, copies of credit card statements obtained from GPO or the credit card company were the only supporting documentation for purchases. Personnel and contract files were also incomplete. Although a significant effort was made by staff and even a contractor hired specifically to locate, copy, and organize documents, after nearly 5 months, the presidential CMB was unable to provide adequate support for about $118,000 of disbursements.

No Evidence for Requisitions. We found no documented advance approvals for purchases of services and supplies, resulting in a lack of control over how federal dollars were spent.

Recommendations

We recommend that the CMB executive directors to the extent practicable and cost beneficial, (1) correct leave balances, (2) recover personal charges for telephone usage, and (3) recover missing property.

We recommend that the presidential CMB executive director

- improve CMB records management system to maintain adequate support for personnel, contract, and disbursement activities and
- maintain a record of authorized financial disbursements sent to GPO for payment and reconcile authorized payments with GPO disbursements monthly.

As discussed in its response to a draft of this report in appendix IV, CMB plans to implement all of our recommendations.

Related-Party Relationships and Transactions

We identified transactions of CMB board members, employees, and contractors considered to be related parties based upon agreed upon criteria. Our disclosure of related-party relationships and transactions does not imply any improprieties, but is in response to your request for this information.

We identified no related-party relationships or transactions regarding any (1) businesses owned, operated, or directed by CMB board members or employees and doing business with CMB, or (2) CMB transactions with family members of board members or employees.

We identified a financial relationship among CMB board members and employees, in which a former presidential CMB board member personally loaned the presidential CMB executive director between $50,000 and $100,000.

Finally, we identified transactions involving prior substantive relationships among CMB officials, including employer/employee or contractor affiliations. We identified 13 congressional and 11 presidential CMB related-party relationships involving about $1 million in salaries, benefits, and contracts for each side. Most of these related-party relationships arose from (1) prior employment or contracting with organizations of board members and (2) cases in which CMB employees later became CMB contractors or vice versa. Further disclosure on related parties, transactions, and amounts appears in appendix I.

Filing of Financial Disclosure Forms

CMB made a reasonable effort to file with an appropriate federal oversight entity financial disclosure forms for CMB personnel paid over certain specified limits. However, no entity would accept the forms, and CMB resorted to appointing its congressional and presidential legal counsels as recipients of the financial disclosure forms.

The Office of Government Ethics for the executive branch informed CMB that it would not accept CMB disclosure forms for filing since CMB was not an executive agency. The Senate Committee on Ethics informed CMB that it only accepted forms for legislative branch boards and commissions created in a year ending with an even number, such as 1998. The House Committee on Ethics informed CMB that it usually accepted forms for boards and commissions created in a year ending with an odd number, such as 1997, applicable to CMB. However, since the compensation of CMB employees is not disbursed by the Clerk of the House, it would not accept CMB disclosure forms for filing.

Matter for Congressional Consideration

As part of future legislation establishing future boards and commissions, the Congress should consider including a provision that specifies whether the entity is to be covered by the employee financial disclosure provisions of the Ethics in Government Act of 1978 and, if

covered, the office to which the disclosure reports are to be submitted for review.

Agency Comments and Our Evaluation

In comments on a draft of this report, CMB said it plans to implement our recommendations on administrative policies and practices, effective October 1, 2000. CMB further said that it is planning to engage an outside accounting firm to help incorporate our recommendations on internal controls and accounting procedures. CMB stated that it "was pleased that we did not find any misuse of government funds and that no board funds were missing." CMB also noted that the board has been given a clean bill of health on the seven specific matters discussed in the report where we found little documented evidence to substantiate possible improprieties and that all the incidental errors in reimbursements we found have been corrected. CMB concluded that the steps it is taking as a result of our audit reflect its commitment to safeguard taxpayer funds. In addition, in their letter commenting on a draft of this report, the legal counsels to CMB did not disagree with the report. The counsels also agreed with our matter for congressional consideration that as part of future legislation establishing boards and commissions, the Congress should consider specifying whether an entity is to be covered by the employee financial provisions of the Ethics in Government Act of 1978 and, if so, to whom the entity should report.

We are pleased that CMB is correcting its internal control weaknesses and its policies, including conformity with laws applicable to legislative branch agencies. However, we disagree with the CMB characterization that we did not find any misuse of government funds. We believe that the inappropriate and wasteful practices we found constitute misuse of government funds, such as

- employees receiving full time salaries that were consistently working less than 8 hours per day;
- employees not recording leave when taken;
- employees not paying their government credit card charges;
- wasteful telecommunications expenses, including uncontrolled personal telephone usage for the presidential CMB;
- duplicate reimbursement for meals while employees were traveling;

- personal side trips at some cost to the government;
- two extra holidays and an unlimited sick leave policy; and
- missing or lost federal property.

Some of these inappropriate or wasteful charges to the federal government were corrected after we notified CMB. These included some corrections of leave balances and reimbursement from a board member for charges for his family and other erroneous travel reimbursements. CMB has advised us that other actions are underway to reduce losses to the federal government, including obtaining payment of all delinquent government credit card charges. In addition, we have recommended that the CMB executive directors to the extent practical and cost beneficial (1) correct leave balances, (2) recover personal charges for telephone usage, and (3) recover missing property.

As discussed in appendix II, we did not quantify the aggregate impact of improper charges discussed in this report. In addition, the scope of our audit was restricted because CMB could not provide us with adequate documentation to support $119,000 of disbursements. Consequently, we were unable to determine whether any other inappropriate or wasteful practices occurred for these disbursements.

In its comments, GPO noted that it provided a service bureau function to CMB and that the accuracy and timeliness of financial and annual leave accounting was dependent on CMB. GPO also stated that CMB is responsible for maintaining a system of internal controls and retaining support for financial transactions. Further, although government credit cards were issued through GPO, CMB was responsible for their official use and prompt payment by the cardholder, as stated in the joint CMB travel policy.

CMB had several other specific comments on the draft of this report, which we incorporated as appropriate. The complete text of CMB and its legal counsels' responses to our draft report are presented in appendix IV. The complete text of GPO's response to our draft report is presented in appendix V.

We are sending copies of this report to Senator George V. Voinovich, Chairman, Subcommittee on the Oversight of Government Management, Restructuring, and the District of Columbia, Senate Committee on Governmental Affairs; Representative Dan Burton, Chairman,

Representative Henry A. Waxman, Ranking Minority Member, House Committee on Government Reform; Senator Fred Thompson, Chairman, Senator Joseph I. Lieberman, Ranking Minority Member, Senate Committee on Governmental Affairs; Ken Blackwell and Gilbert Casellas, Co-chairmen, Congressional Monitoring Board; and other interested parties.

If you or your staffs have questions about this report, please contact me on (202) 512-9505. Staff who made key contributions to this report are listed in appendix VI.

Gregory D. Kutz
Associate Director
Governmentwide Accounting and
Financial Management

Census Monitoring Board Related Parties

Using the criteria we discussed in our scope and methodology in appendix II, we identified the following CMB related-party relationships and transactions:

1. Businesses owned, operated, or directed by CMB board members or employees: None identified.

2. CMB transactions with family members of board members or employees: None identified.

3. CMB board members and employees with financial relationships with each other: A former presidential CMB board member reported a personal loan of between $50,000 and $100,000 to the presidential CMB executive director.

4. CMB board members and employees with prior substantive business relationships with employees or contractors, such as employer-employee relationships or contractors that worked for board members and employees prior to work at CMB:

Congressional CMB

- Employment of a congressional CMB field staff member, at an annual starting salary of $52,000, who was a former employee of a congressional CMB board member's state government organization.

- Employment of the congressional CMB press secretary, at an annual starting salary of $52,000, who was a former employee of a congressional CMB board member's state government organization.

- Employment of a congressional CMB field staff member, at an annual starting salary of $78,000, who was a former employee of a congressional CMB board member's state government organization and political campaign. This employee later became a congressional CMB contractor with two successive contracts to provide state and local government outreach services and Bureau of the Census local office coordination at an amount not to exceed $81,000 annually, including expenses.

- Engagement of a former congressional CMB employee who served as a senior analyst, at an annual starting salary of $85,000, who became a congressional CMB contractor for statistical issues and was paid $5,907.

- Engagement of a former congressional CMB employee who served as field staff, at an annual starting salary of $78,000, who became a congressional CMB contractor to provide community outreach services under a contract that paid $18,384 and a successive contract not to exceed $70,200, including expenses.

- Employment of a former congressional CMB contractor for community outreach services, who was paid $4,950 as a contractor, and became the congressional CMB director of outreach at an annual starting salary of $100,000.

- Engagement of a congressional CMB contractor for two successive contracts totaling $66,235 to conduct focus groups. This contractor previously performed work for a congressional CMB board members' political campaign and an organization affiliated with another congressional CMB board member.

- Engagement of a congressional CMB contractor for community outreach services under a contract that paid $4,111 and a successive contract not to exceed $25,000, including expenses. This contractor previously performed work for a congressional CMB board member's political campaign.

- Engagement of a congressional CMB contractor for community outreach services under a contract not to exceed $25,000, including expenses. This contractor previously performed work for a congressional CMB board member's political campaign.

- Engagement of a congressional CMB contractor for community outreach services under a contract that paid $51,901. This contractor previously performed work for a congressional CMB board member's political campaign.

- Engagement of a congressional CMB contractor for community outreach services under a contract that paid $44,432. This contractor previously performed work for a congressional CMB board member's political campaign.

- Engagement of a congressional CMB legal counsel, with a contract to provide legal services for $60,000 annually plus expenses, who previously performed work for a company affiliated with a congressional CMB board member.

- Engagement of a congressional CMB contractor for a contract to provide automated document management systems for $46,775. This contractor provided software from a company that had a prior business relationship with the congressional CMB executive director, who recused himself from contractor activities to avoid a potential conflict of interest.

Presidential CMB

- Employment of the presidential CMB executive director, at an annual starting salary of $118,400, who was a contractor to a former presidential CMB board member federal organization and served on the member's staff in the U.S. House of Representatives.

- Employment of the presidential CMB director of operations, at an annual starting salary of $75,000, who was an employee of a former presidential CMB board member's federal organization.

- Employment of the presidential CMB director of finance, at an annual starting salary of $69,000, who was an employee at a business where a former presidential CMB board member was a director. This employee was hired by the executive director several months after the board member left CMB.

- Employment of presidential CMB deputy director of policy, at an annual starting salary of $62,500, who was a former employee of a former presidential CMB board member's federal organization.

- Employment of a presidential CMB administrative assistant, at an annual starting salary of $40,000, who was a former employee of a presidential CMB board member's business.

- Employment of a presidential CMB administrative assistant, at an annual starting salary of $35,000, who was a former employee of a presidential CMB board member's business.

- Employment as presidential CMB deputy executive director, at an annual starting salary of $86,000, of a former presidential CMB contractor who was paid $23,268 to provide 3 months of writing and editing services.

- Employment as presidential CMB director of communications, at an annual starting salary of $69,000, of a former presidential CMB contractor who was paid $3,950 to provide 1 month of communications services.

- Engagement by a former presidential CMB board member of his personal attorney as presidential CMB legal counsel who is paid $60,000 annually, plus expenses.

- Engagement of a presidential CMB contractor for two successive contracts totaling $44,000 plus expenses to advise on human resources policy and employment law who previously performed work for a presidential CMB board member's organization.

- Engagement of a presidential CMB contractor for two successive contracts totaling $199,500 plus expenses to provide public outreach support. An owner of this contractor business served on the staff of a former presidential CMB board member when he was a member of the House of Representatives.

Scope and Methodology

Our scope was to obtain and review information on seven specific matters requested, as follows:

1. **Were presidential CMB funds used to print reports for the 1998 World Exposition?**

   We reviewed presidential CMB disbursements over $200. In addition, we interviewed presidential CMB officials about this matter and examined an invoice and personal checks for the printing of these reports.

2. **Did congressional CMB videotapes have a narrow political distribution and did internal controls exist over the use of copyrighted material?**

   We obtained a congressional CMB report of videotapes produced and the number of copies and their distribution. We also determined whether any internal controls existed over the use of copyrighted material used in the videos. In addition, we interviewed the congressional CMB executive director about this matter.

3. **Were congressional and presidential CMB funds used in connection with political events?**

   We reviewed all out-of-town travel and determined the purpose of the trips. Specifically, we reviewed for possible political purposes the travel of the

   - congressional CMB co-chairman while he was serving as chairman of a political campaign from June 1999 through February 2000;
   - former presidential CMB co-chairman from June 1998 through May 1999, when he resigned from CMB to become a political campaign manager; and
   - congressional and presidential CMB staff before political primaries in Iowa in January 2000 and New Hampshire and Arizona in February 2000.

4. **Were four presidential CMB contracts for studies on census undercounting properly procured?**

   We interviewed presidential CMB employees. We also reviewed

- the board-adopted policies for its Procurement of Temporary or Intermittent Services;
- the consultant's contracts, including modifications and related invoices;
- the proposals from two consultants, including the selected consultant; and
- the consultant's subsequent written report and media reports concerning this study.

5. Were protected census data accessed by two former congressional CMB employees?

We interviewed the (1) congressional CMB executive director about this matter, (2) Bureau of the Census officials, and (3) the two former CMB employees who could possibly have violated Title 13 when they left CMB to work for the Republican National Committee on redistricting issues. We also obtained from the Bureau of the Census logs of requests by CMB including Title 13 information.

6. Were questions asked about political parties in a congressional CMB contractor focus study?

We interviewed the congressional CMB co-chairman, another board member, the executive director, and the contractor about this matter. We viewed the two focus group videotapes and reviewed the consultant's contract and related invoice, subsequent written report, questions that were asked, and other documents and media reports concerning the study.

7. Was there an oral confrontation by a congressional CMB contractor and how was the matter subsequently resolved?

We reviewed an local census office site visit report prepared by the contractor, obtained a detailed e-mail describing the visit by the Bureau of the Census LCO manager concerned, and interviewed the congressional CMB executive director and one of the area managers who was present during the LCO meeting. We also reviewed the *Employee Code of Conduct* and the *Field Personnel Guidelines for Field Visits*, which were adopted after this matter.

In addition, our scope was to audit all CMB out-of-town travel disbursements and all other disbursements over $200 from the first transactions in June 1998 through March 31, 2000, including any unusual transactions that came to our attention after this period. Disbursements from CMB appropriated funds would include congressional, presidential, and joint accounts with a focus on personnel, travel, and services. We also audited CMB printing and computer disbursements over $200 charged to the Congressional Printing and Binding appropriation. Further, our scope included

- evaluating the internal control environment that existed for both sides of CMB;
- identifying CMB financial policies, procedures, and internal controls and whether they were followed and effective;
- determining if CMB disbursements were incurred for official CMB government purposes; and
- identifying related-party relationships and transactions.

We did not

- evaluate the effectiveness of CMB program activities in monitoring the 2000 Census;
- conduct a search for CMB transactions incurred before March 31, 2000, but paid later;
- determine whether royalty payments should have been made by the congressional CMB on copyrighted material used in the production of videotapes;
- evaluate CMB official travel or other activity beyond the stated purpose of the trip;
- evaluate the congressional CMB contractor's focus group methodology or questions that were asked;
- conduct physical inventories of property;
- determine the extent of personal telephone usage;
- determine the extent of long distance telephone usage on office telephones;

- quantify the aggregate impact of improper charges discussed in this report;
- audit transactions with inadequate support; or
- determine whether frequent flyer mileage earned was used for personal travel.

To determine the amount and purpose of CMB disbursements, we obtained monthly financial reports of CMB disbursements that GPO processed and paid from CMB appropriated funds. We also obtained a list of CMB printing and binding costs charged to the Congressional Printing and Binding appropriation as permitted by CMB legislation. We examined documents supporting disbursements maintained by CMB; performed a financial analysis of activity; and conducted interviews with the two CMB executive directors, most current CMB employees, and some CMB board members and contractors. We also reviewed the minutes of the board meetings; semiannual reports required by CMB legislation; and for the congressional CMB, an internal controls study and draft audit reports for fiscal years 1998 and 1999 issued by two CPA firms. In addition, we analyzed a GPO reconciliation of expenditures and appropriation accounts with the CMB Fund Balance with Treasury as of March 31, 2000.

To determine the internal control environment for both sides of CMB, we interviewed both executive directors and selected staff, examined documents to identify key factors that affect the control environment, and identified weaknesses. Based upon our *Standards for Internal Control in the Federal Government*, these factors include entity management operating style, commitment to competence, organizational structure, authority and responsibilities, human capital, and relationships with the Congress.

To determine CMB financial policies, procedures, and internal controls and whether they were followed and effective, we obtained written documents adopted by the board and other written and verbal procedures unique to both sides of CMB. We examined specific internal controls of the congressional and presidential CMB using the *Standards for Internal Control in the Federal Government*. For each side, we considered control risk, reviewed control activities, identified information and communications, examined controls used to monitor disbursements, and identified weaknesses.

To determine if CMB disbursements were for official CMB government purposes, we examined supporting documentation for personnel compensation and benefits, procurement of services, and travel. We used our *Guide for Evaluating and Testing Controls Over Sensitive Payments*, which encompasses activities vulnerable to potential abuse, such as compensation, procurement of services, and travel.

To determine whether the supporting documentation we examined was adequate, we used the *Standards for Internal Control in the Federal Government*, which states that all transactions need to be clearly documented and the documentation should be readily available for examination. In addition, these standards require that records be properly managed and maintained. For CMB disbursements, we considered the supporting documentation adequate when the support included written approvals of the transactions, vendor invoices, credit card statements, and evidence of receipt, such as packing slips or receiving forms.

To determine what related-party relationships and transactions existed between CMB current and former employees or contractors, we applied the following criteria to disclose any related party:

- Businesses owned, operated, or directed by CMB board members or employees.
- CMB transactions with family members of board members or employees.
- CMB board members and employees with financial relationships with each other.
- CMB board members and employees with prior substantive business relationships with employees or contractors.

To identify related-party transactions, we examined financial disclosure forms and personnel files; conducted interviews with both CMB executive directors, staff, and some contractors; and obtained written confirmations from all CMB board members. Our identification of related-party relationships and transactions does not imply any improprieties, but is in response to your request for this information. For guidance on related party transactions and disclosures, we used Statement of Financial Accounting Standards No. 57, *Related Party Disclosures*, and Statement on Auditing Standards No. 45, *Related Parties*.

We also reviewed the legislation establishing CMB and various laws and regulations applicable to personnel, travel, procurement, ethics, and other matters. As specific legal issues were identified, we also reviewed court cases, Comptroller General decisions, Attorney General opinions, and other authoritative literature.

Our work was performed in Washington, D.C., and Suitland, Maryland, from April through August 2000 in accordance with generally accepted government auditing standards.

Entity Status of CMB

From its beginning, CMB expressed the view that it had characteristics of both the executive branch and the legislative branch and established policies and procedures it considered appropriate under the circumstances. However, in our opinion, CMB is an agency in the legislative branch and is subject to laws generally applicable to the legislative branch, unless a provision of law specifically provides otherwise. The legislation establishing CMB did not define its status or, with a few exceptions, specify laws that would generally govern its operations. With respect to certain administrative matters, CMB adopted policies that were not consistent with the laws generally applicable to agencies of either the executive or legislative branch.

The verbatim minutes of the first CMB board meeting consistently reflect the view that CMB is not wholly within the executive or legislative branch and that some issues may result from the board being "in the middle somewhere." For example, in discussing a code of conduct for board members, the board was described as "a hybrid, in some respects, it acts like an executive branch agency, and for others, like a congressional agency." CMB minutes indicate that questions as to the application of federal law would be addressed case by case. However, as the board adopted policies governing administrative matters, such as leave and travel, we found no legal analysis supporting departures from the laws generally applicable to agencies of either the executive or legislative branches. Further, we have received no evidence from CMB that reflects a clear view of its legal status and what laws would generally govern its operations. [1]

As a federal governmental entity, CMB must be in either the executive or legislative branch.[2] Because congressional leaders appoint some CMB board members and CMB reports to the Congress and exercises no executive or regulatory functions, CMB is not an entity in the executive branch.[3] Further, there is ample legal precedent for considering entities like CMB to be in the legislative branch. For example, we concluded

[1] One exception is CMB's *Policy for Procurement of Temporary or Intermittent Services*, which states that CMB is neither an executive nor a legislative branch agency.

[2] We are aware of no suggestion that CMB is not a federal governmental entity. CMB is funded entirely with appropriated funds, its employees are federal employees, and its function is to review and report on government activities. CMB clearly is not in the judicial branch.

[3] *Buckley v. Valeo*, 424 U.S. 1 (1976).

that the National Commission on Air Quality, which had presidential and congressional members and whose function was to study and report to the Congress, was in the legislative branch.[4] Similarly, in a January 2, 1999, opinion, the Office of Legal Counsel, Department of Justice, concluded that the National Gambling Impact Study Commission, an entity similar to CMB, was part of the legislative branch. Even when the President appointed all members of a commission, we concluded that the commission was in the legislative branch if the commission had no executive powers and its only functions were to study and report to the Congress.[5] Accordingly, we conclude that CMB is an agency of the legislative branch.

[4] B-194074, March 26, 1979. Our opinion observes that the Library of Congress Congressional Research Service had reached the same conclusion.

[5] B-202206, June 16, 1981 (Northern Mariana Islands Commission on Federal Laws), and B-202482, April 7, 1981 (Native Hawaiians Study Commission).

Comments From the Census Monitoring Board

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

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September 22, 2000

Mr. Gregory D. Kutz
Associate Director
Governmentwide Accounting and Financial Management
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Kutz:

We appreciate the opportunity to comment on GAO's report.

First, we are very pleased that GAO did not find any misuse of government funds and that the Board has been given a clean bill of health on each of the seven major questions that prompted the audit. GAO also found that neither side of the Board has engaged in inappropriate partisan activities and that no Board funds are missing, and we obviously concur with these findings.

Second, we welcome GAO's recommendations regarding the Board's internal administrative policies and practices, and both sides of the Board will implement the recommendations listed in your report, effective October 1, 2000. (Additional comments regarding separate administrative issues are addressed at the end of this letter.)

Third, the Board will retain an outside accounting firm to help incorporate GAO's recommendations on internal controls and accounting procedures. (As GAO notes, the congressional CMB retained outside firms in 1998 and 1999.)

Fourth, all incidental errors in reimbursements found by GAO have been corrected.

Fifth, GAO's view that the Board is a legislative entity is discussed by our outside attorneys in the enclosed correspondence, which we request that you publish along with this letter.

Finally, the Board has worked diligently over the past two years to accomplish the mission given to us by Congress. For example, members of the Board and staff have held multiple hearings and spoken with hundreds of community leaders, government officials, and other census stakeholders. We also have conducted wide-ranging research and undertaken investigative visits to key sites, including Columbia, South Carolina; Miami and Tampa, Florida; Atlanta, Georgia; Gulfport, Mississippi; Houston and San Antonio, Texas; Sacramento, Los Angeles, and San Diego, California; Menominee, Wisconsin; Chicago, Illinois; Jeffersonville, Indiana; New York City; and others.

Mr. Gregory D. Kutz
September 22, 2000
Page Two

Additionally, the Board has met with Census Bureau officials on multiple occasions, including all 12 regional directors. Detailed reviews of the census dress rehearsals, the advertising campaign, the data collection effort, and the overall decennial operational plan have taken place. Board members and staff also have participated in dozens of events sponsored by intergovernmental organizations and other census stakeholders in order to promote full public participation in the census.

As mandated by Congress, the Board has published three joint reports dated April 1, 1999, October 1, 1999, and April 1, 2000, and each side has published various supplemental reports. Copies are available to the public or via the Internet at www.cmbp.gov and www.cmbc.gov. Our next joint report is due October 1, 2000 and will summarize the Board's observations of 50 local census offices representing all 12 census regions. In fiscal year 2001, the Board will pursue its oversight of the Accuracy and Coverage Evaluation program and the critical release of census data to state and local governments.

In sum, although GAO has now disposed of the seven major questions that triggered the audit, we recognize that the decision to ask for a GAO review reflected a higher purpose – namely, a desire on the part of Members of Congress to safeguard taxpayer funds. We share that commitment and believe that the results of the audit, along with the specific steps we are taking in response to it, reflect our commitment to that principle.

Sincerely,

J. Kenneth Blackwell
Congressional Co-Chair

Gilbert F. Casellas
Presidential Co-Chair

Fred Asbell
Congressional Executive Director

Mark Johnson
Presidential Executive Director

Enclosure

cc: CMB Members

Mr. Gregory D. Kutz
September 22, 2000
Page Three

Additional Comments by the Presidential CMB Executive Director

1 We agree with GAO that "no presidential CMB funds were used to print reports for the 1998 World Exposition," that "no CMB funds were used for political travel," and that "presidential CMB contracts for studies on census undercounting were not improperly procured."

2. Our reliance on the Government Printing Office for administrative support was by design. We contracted with GPO to process disbursements, maintain personnel files, and keep financial records – services GPO has performed with great efficiency. Even though we purposely did not build a redundant infrastructure, 97 percent of all presidential CMB disbursements are fully documented in our internal files, according to GAO's own calculations. Still, we accept the recommendation to strengthen internal controls and, accordingly, have named a deputy executive director for administration and will work with an outside accounting firm to conform our practices to GAO's specifications.

3. The laptop computer cited as missing did not contain any confidential census information.

See comment 1.

4. We have, for simplicity's sake, frequently utilized our executive assistant's government travel card or other office cards to charge travel expenses for Board members, the executive director, and contractors. In addition, when groups of CMB staff traveled together, hotel rooms were occasionally put on one travel card to save time. These charges were properly reconciled and paid, but we have discontinued these practices pursuant to GAO's advice.

See comment 2.

5. About $4,000 of the $4,500 in personal charges cited in the report was mistakenly put on an office MasterCard instead of a personal MasterCard last winter. These charges were removed from the office card before the audit began. In any event, as GAO found, the entire $4,500 was paid with personal funds, and no personal charges to any government travel cards were ever paid or reimbursed with official funds.

Additional Comments by the Congressional CMB Executive Director

In addition to adoption of the recommended Board personnel policy changes referred to above, we will ensure the recommendations to tighten or revise some internal controls and accounting procedures on our side are fully implemented.

Personal side travel – CMBC has already changed its procedures and now requires that employees purchase market-rate tickets for indirect travel. The traveler would then seek reimbursement for either the government rate of the direct route and means, or the actually traveled fare, whichever is less. The traveler personally pays any additional expenses incurred as a result of the indirect or interrupted travel.

Mr. Gregory D. Kutz
September 22, 2000
Page Four

2. Travel card monitoring – As our Government Travel Cards are issued through GPO, CMBC is dependent upon that agency to provide us with information concerning employee travel cards. We are working with GPO to accomplish this. CMBC will counsel any individuals it is aware of regarding usage or delinquency with their Government Card.

3. Pay and benefit reconciliation – We are updating our system to include monthly payroll reconciliation. We are requesting that GPO provide an annual reconciliation of benefits.

4. Internal control tightening – We are taking the steps necessary to ensure that all employees remain in compliance with the Board's policy on attendance and telecommunications usage.

5. Contractors – CMBC has internal controls to ensure that all contractors operate under a current, signed agreement with the Board for their services. We will review our policies and procedures to determine if additional changes need to be implemented in this area.

6. Written employee evaluations – On at least an annual basis, CMBC will prepare written evaluations for all personnel.

In addition to our joint Board activities, the congressionally appointed members of the Board have worked with local, state and community leaders to improve the Census 2000 efforts directed towards those who are traditionally missed or undercounted by the census. These include the poor, immigrants, minorities, and children, who often live in hard-to-count areas such as inner-city neighborhoods, barrios, remote rural areas and on reservations.

This issue has been the subject of in-depth research, fieldwork and three reports to Congress by the congressional members. Over the next year, the congressional members will continue to monitor the impact of the 2000 decennial census on the hard-to-count neighborhoods throughout the country and report its findings and recommendations to Congress.

See comment 3.

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September 22, 2000

Mr. Gregory D. Kutz
Associate Director
Governmentwide Accounting and Financial Management
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Kutz:

As you know, GAO has concluded, based on its interpretation of *Buckley v. Valeo*, 424 U.S. 1 (1976), and other "legal precedent," that the Census Monitoring Board is a legislative agency and therefore subject to laws generally applicable to the legislative branch. Leaving aside whether GAO's conclusion is correct, we note that the legislation establishing CMB did not define its status or specify laws that would generally govern its operation.

In fact, in March, 1998, when Chairman Dan Miller of the House Subcommittee on the Census attempted to determine whether CMB members were subject to the House or Senate codes of conduct, he contacted the United States Office of Government Ethics ("OGE"). OGE would not provide a conclusive determination as to CMB's status and suggested requesting guidance from the U.S. Senate Select Committee on Ethics and the U.S. House of Representatives Committee on Standards of Official Conduct. This was done, and both the Senate and the House provided informal guidance based on earlier analogously structured agencies, concluding that CMB members would not be subject to their respective codes of conduct. Neither body determined that CMB was a legislative agency, nor would they permit CMB staff to file financial disclosure reports with their offices. Counsels to both the Congressional and Presidential members of CMB were acutely aware of the lack of clarity concerning CMB's entity status.

GAO has recommended that in the future Congress specify whether or not an entity such as CMB is covered by provisions such as the Ethics in Government Act of 1978. We agree with GAO's recommendation, and with its view that specific, prospective guidance from Congress may be helpful to future boards and commissions in determining applicable law.

Sincerely,

Benjamin Ginsberg
Congressional CMB Counsel

Stanley Brand
Presidential CMB Counsel

cc: CMB Co-Chairs

The following are GAO's comments on CMB's letter dated September 22, 2000.

GAO Comments

1. We disagree with the presidential CMB executive director that the charges to the executive assistant's government travel card were properly reconciled and paid. We found that charges for lodging of a presidential CMB board member's family and an erroneous reimbursement of travel expenses to that board member resulted in part because of weak reconciliation of credit card usage. These charges were all made to the executive assistant's government credit card and were approved for payment by the presidential CMB executive director. These inappropriate charges to the federal government were found as a result of our audit rather than being detected by the presidential CMB reconciliation or other internal controls.

   Additionally, the presidential CMB states that the individual's credit card was utilized for simplicity sake, this practice is contrary to the agreement with the federal government's credit card issuer and the CMB joint travel policy which states that only the cardholder may use the card. Presidential CMB staff were placed in the difficult position of being personally liable for charges that others incurred to their federal account. This situation, coupled with a late reimbursement by the presidential CMB, caused the executive assistant's account to be delinquent and subsequently cancelled by the credit card company with a potentially adverse effect on her personal credit rating.

2. We disagree that $4,000 of the $4,500 of personal charges by the presidential CMB executive director was mistakenly put on an office MasterCard instead of a personal MasterCard last winter. This amount relates to hotel bills charged to his executive assistant's government credit card in March 2000 while the presidential CMB executive director was on leave in Florida. These charges were part of a pattern of inappropriate personal use by the presidential CMB executive director of his own and three other employees' government credit cards over a span of nearly 2 years. After his government credit card was cancelled, the presidential CMB executive director used three other employees' government credit cards for personal travel and local restaurant bills from March 2000 through July 2000. From interviews with the executive director, he had physical possession of the other employees' credit cards when he used them at local restaurants. Although these personal expenses

were not charged to or reimbursed by CMB, we found that the inappropriate personal use was not a mistake.

3. The legal counsels for the congressional and presidential CMBs commented on the lack of clarity concerning CMB's entity status and refer to three letters on ethics issues to illustrate that lack of clarity. As this report discusses in appendix III, there is substantial legal precedent supporting the conclusion that CMB is a entity in the legislative branch. Further, we do not believe that the letters cited by the counsels contributed to a lack of clarity regarding CMB's entity status. In fact, the letter from the Office of Government Ethics states that CMB would appear to be a legislative branch entity. Further, the letters from the Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct each advised that CMB was not subject to the respective body's Code of Conduct for reasons unrelated to CMB entity status.

Comments From the Government Printing Office

United States Government Printing Office
Washington, DC 20401

SEP 22 2000

Mr. Gregory D. Kutz
Associate Director Governmentwide Accounting
and Financial Management
United States General Accounting Office
Washington , DC 20548

Dear Mr. Kutz:

Thank you for the opportunity to comment on the draft report entitled Financial Management: Census Monitoring Board Disbursement, Internal Control Weaknesses, and Other Matters. While there are no audit recommendations directed to the Government Printing Office (GPO), I would like to offer my observations on some of the internal control issues that were identified during the audit with a view toward clarifying GPO's relationship with the Board.

In May 1998, GPO entered into an Interagency Agreement, in accordance with the Economy Act of 1932, 31 U.S.C. sections 1535 & 1536, with the Census Monitoring Board to provide payroll and procurement services for the Board. In addition, GPO agreed to prepare accounting reports showing the expenditure of funds and remaining balance each month.

GPO's role is to function as a service bureau for the Board and maintain records of obligations and expenditures for the funds allocated by the Board to separate accounts established for the three components of the Board: Presidential, Congressional, and Joint accounts. The Board is responsible for certifying payments and GPO is responsible for affecting payments on behalf of the Board. The Census Monitoring Board has the responsibility of maintaining a system of internal control and supporting documentation at the Board's offices for all business transactions.

Your draft report mentioned an internal control weakness over recording of annual leave. GPO operates a daily reporting system for pay and leave. Both the Presidential and Congressional components were invited to report employee leave usage to GPO on a daily basis but they decided to report annual leave usage at less frequent intervals. Consequently, GPO's leave records were not always up to date with the leave records maintained by the Board. Accurate leave reports depend upon accurate and timely notification of leave being used and GPO posted the leave usage to our leave records as soon as it was received.

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The draft report also mentions improper use of government credit cards. GPO issued travel credit cards to Board employees upon request. The cards were issued with the understanding that they were to be used for official business only and paid timely by the employees in accordance with the master agreement between GSA and the credit card company and the Board's policy.

Sincerely,

ROBERT B. HOLSTEIN
Comptroller

Staff Acknowledgments

Roger Stoltz, Cindy Brown-Barnes, Amy Chang, David Fisher, Mickie Gray, Peggy Smith, Jeffrey Jacobson, and David Engstrom made key contributions to this report.

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