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# REPORT TO THE CONGRESS

1975

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### Personnel Management In The Small Business Administration

Problems have been identified in the Small Business Administration's personnel programs and practices. Management is reviewing these and taking appropriate action.

Routine evaluations by the Civil Service Commission found weaknesses in several personnel areas. GAO found numerous political referrals in correspondence files. A GAO opinion survey showed that a majority of the Agency's employees felt its personnel programs and practices were "good" or "fair", but 37 percent felt that political influence had been used in filling certain jobs.



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

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To the President of the Senate and the  
Speaker of the House of Representatives

This is the fourth in a series of reports to be issued pursuant to Public Law 93-386, which requires us to conduct a full-scale audit of the Small Business Administration. This report discusses personnel management. Our review determined that although personnel problems exist, management is reviewing them and taking corrective action.

We are sending copies of this report to the Director, Office of Management and Budget; Chairmen, House and Senate Committees on Post Office and Civil Service; Chairman, Senate Select Committee on Small Business; Chairman, House Committee on Small Business; Chairman, Civil Service Commission; and Administrator, Small Business Administration.

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Comptroller General  
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#### ABBREVIATIONS

EEO	equal employment opportunity
GAO	General Accounting Office
RIF	reduction in force
SBA	Small Business Administration
SOP	standard operating procedure

D I G E S T

Section 13 of Public Law 93-386 dated August 23, 1974, directed GAO to conduct a comprehensive audit of the Small Business Administration. This report, one of a series prepared in response to the legislative mandate, discusses the Agency's personnel management practices.

GAO's review of Small Business Administration personnel management involved:

- Determining the Agency's corrective actions to improve personnel management in response to Civil Service Commission reports.
- Surveying opinions of 518 employees, or over 10 percent of the Agency's personnel, on how they perceived their Agency's personnel management.
- Determining the issues concerning allegations of political influence in personnel actions.

During its routine evaluations at the Agency, the Commission 1/ found weaknesses in the Small Business Administration's personnel management. (See pp. 11 to 14.)

GAO noted that the Small Business Administration had generally taken corrective action on Commission recommendations.

GAO's employee opinion survey showed that the majority considered personnel programs and practices good or fair. When specific allegations of improprieties were made, GAO attempted to determine their validity but was generally unable to document that specific actions were improper.

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1/ The evaluations were often conducted jointly with the Agency.

The Commission in an August 1974 report entitled "Alleged Political Influence in Personnel Actions at the Small Business Administration," stated that:

--"Sponsorship by partisan political figures, political affiliations, and political clearances were factors in the selection of four District Directors in SBA; in the absence of a viable staffing plan for District Director positions, SBA has permitted a personnel management vacuum to exist in which political interests are allowed to influence appointments to these key positions."

--"A number of improper or illegal personnel actions have been taken by SBA as a result of efforts to provide preferential treatment to some candidates and employees; and in some cases, the personnel actions which resulted from the preferential treatment were based on considerations of political support."

--"Disciplinary action should be considered with respect to certain SBA officials who violated personnel laws or were otherwise responsible for such violations on the part of their subordinates or other employees."

The Commission recommended specific corrective actions and the Administrator of the Small Business Administration agreed to implement them. (See p. 20.)

About 37 percent of the 518 employees interviewed by GAO thought political appointees had been placed in Small Business Administration positions and that some appointments responded to changes in the White House administration.

GAO noted numerous political referrals in Small Business Administration correspondence files, including statements beyond character or residence, the two items permitted by 5 U.S.C. 3303. GAO believes that although the official examining an applicant may not legally consider such references they are difficult to ignore and put undue pressure on the examining official.

In view of Executive Order 11222--which prohibits any action which might give or create the appearance of giving preferential treatment to any person--and that over one-third of the Agency employees we interviewed believed that political appointees had been placed in positions aspired to by careerists, the Small Business Administration should avoid even the appearance of preferential treatment to any person. The Commission remarked that

"\* \* \* while certain technical legal and regulatory details may have appeared, on the surface, to have been compiled with, it is clear from an examination of the cases reported that the true spirit and intent of personnel laws and merit principles were violated."

Because of on-going personnel management evaluations at the Small Business Administration, corrective actions initiated or taken by the Agency, cases under litigation, congressional hearings and proposed legislation on the merit system, GAO does not consider it appropriate to make recommendations.

## CHAPTER 1

### INTRODUCTION

Section 13 of Public Law 93-386 dated August 23, 1974, directed us to conduct a comprehensive audit of the Small Business Administration (SBA). This report, one of a series prepared in response to the legislative mandate, discusses the Agency's personnel management practices.

### ORGANIZATION AND RESPONSIBILITIES

SBA was created by the Small Business Act of 1953 (67 Stat. 232), and derives its present existence and authority from the Small Business Act (72 Stat. 384; 15 U.S.C. 631 et seq.), as amended. SBA responsibilities include:

- Aiding, counseling, and protecting small business interests.
- Insuring that small businesses receive a fair share of Federal purchases, contracts, subcontracts and sales of property.
- Making loans to small businesses, State and local development companies, and disaster victims.
- Licensing, regulating, and making loans to small business investment companies.
- Improving the management skills of small business owners, potential owners, and managers.
- Conducting economic studies.

SBA is managed by an Administrator, who is presidentially appointed with the advice and consent of the Senate. SBA employs over 4,500 people in its central, regional, and district offices. Regional director positions 1/ are excepted from the usual merit system requirements and are appointed at the SBA Administrator's discretion.

During fiscal year 1975 SBA processed nearly 21,000 personnel actions (including pay raises). SBA's fiscal year 1975 budget was over \$113 million, including \$27 million in direct appropriations and \$86 million from revolving funds. Personnel compensation comprised about \$68 million, or 60 percent of the budget.

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1/Generally a GS-16 position with a salary range of \$36,338 to \$37,800.

EEO and the integrity of the merit system. We also discussed personnel matters with Commission officials, in Washington and in the field.

We reviewed SBA and Commission policy statements, procedures, and correspondence, selected SBA personnel records, and Commission personnel management evaluations.

Most employee allegations of personnel management weaknesses were not readily verifiable because subjective management decisions were involved and supporting documentation was not available. Since employee opinions affect the morale of SBA, they have been included in the report.

## CHAPTER 2

### EMPLOYEE ATTITUDES ON PERSONNEL MANAGEMENT

#### EMPLOYEE ATTITUDES

Among 518 SBA employees surveyed (over 10 percent of the work force during our review), the majority perceived SBA's personnel management practices good or fair. Nevertheless, many alleged specific weaknesses similar to those reported by the Commission in its routine evaluations of SBA's personnel management (see p. 12). The chart below shows that employees were generally positive toward the SBA personnel program in that good and fair responses combined ranged from 71 percent to 85.5 percent.

	<u>Good</u>		<u>Fair</u>		<u>Poor</u>		<u>No opinion</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Recruitment	202	39.0	190	36.7	73	14.1	53	10.2
Selection	217	41.9	200	38.6	64	12.4	37	7.1
Reassignment/ separation	230	44.4	160	30.9	57	11.0	71	13.7
Recognition (awards)	193	37.2	175	33.8	105	20.3	45	8.7
Promotions	180	34.7	221	42.7	86	16.6	31	6.0
Performance	257	49.6	169	32.6	69	13.3	23	4.5
Training	259	50.0	173	33.4	65	13.3	17	3.3
EEO	304	58.7	139	26.8	43	8.3	32	6.2

To specify weaknesses within the broad personnel program categories, we analyzed the "poor" responses. Some reasons given for a "poor" response were general, and others involved isolated incidents which the employee believed contrary to good management. As shown in appendix II the distribution of the "poor" responses ranged from 8 percent to 16 percent according to geographic location. In the areas of recruitment, selection, and promotion, many of the employees responding negatively believed that political considerations influenced decisions. As discussed in chapter 3, we were not able to prove such allegations although we noted cases involving appearances of preferential treatment. Such appearances are prohibited by Executive Order 11222.

ALLEGED WEAKNESSES AND  
REASONS FOR "POOR" RESPONSES

Recruitment

Seventy-three of the 518 employees said SBA's recruitment practices were poor. Fifty-seven stated that SBA hired outsiders to fill key positions (especially district directorships 1/). Fifty-six believed that politics influenced recruitment practices, and 22 specifically mentioned district directorships as subject to political influence.

Concerning district director appointments, the Administrator stated that SBA's "aim is to get the best qualified candidate either from outside or within SBA." He indicated that of the current 64 district directors 34 were from within and 30 from outside SBA. When a non-SBA employee was selected, he was, in the agency's judgment, the better candidate.

The Administrator added that for several reasons the Government tends to develop excellent technicians but not enough good general managers. Accordingly, to improve SBA's operations it had been necessary to turn to the private sector. He said that SBA's executive development program was redesigned in early 1972 and that 125 potential and active executives had been identified and were receiving training.

Other alleged SBA recruitment practices which caused employee criticisms included:

- Recruiting by SBA officials of former associates from companies or agencies where the officials were previously employed, and forming cliques within SBA on this basis.
- Recruiting outsiders without strong banking and finance experience for management positions.
- Attempting to recruit professional staff, particularly loan liquidators in some offices, without being able to give high enough pay grades.
- Misclassifying jobs to assure hiring favored persons.
- Recruiting marginally qualified clerical employees.
- Maintaining clerical positions at low grades, causing turnover.
- Staffing insufficiently.

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1/Generally a GS-15 position with a salary range of \$31,309 to \$37,800.

### Temporary intermittent employees

The Commission has approved annually SBA's requests for authority to hire 28 bank relations officers on a temporary, intermittent basis. In the central office, 14 intermittent employees had held their positions for 1 month to 10 years (3 were employed full time).

We reviewed similar cases in one region. An employee entered duty in May 1967 on an appointment not to exceed 1 year. The appointment had been extended annually through the time of our review. Thirty-five recent time and attendance records showed he worked an average of 39 hours weekly. Another employee was hired on the same basis in April 1971 and has averaged 38-hours weekly. Still another, also hired on a temporary, intermittent basis in August 1974, (to replace an employee who worked about 34 hours a week for 1 year on the same basis), averaged 39 hours weekly.

The Commission in November 1974 restricted agencies' authority to make temporary limited appointments. This restriction should help prevent using temporary intermittent appointments to fill continuing positions.

### Selection

Sixty-four employees believed selection practices were poor and cited the following reasons:

- 30 believed job descriptions were tailored to fit candidates' qualifications.
- 30 believed candidates for key positions (15 mentioned district directorships) were identified according to political party.
- 13 believed the best qualified candidate was not selected.

Some of these employees cited cases of alleged preselection for positions without true competition. We reviewed several cases and were unable to prove the allegations. Employees in one region, however, referred to one documented 1970 case in which the Commission required SBA to reverse a selection action because it had violated both SBA and Commission instructions. SBA had assigned an employee on a non-competitive basis to a newly created position with known promotion potential. Nine months later a job announcement was posted for the position, and the individual already assigned to the position was selected as best qualified. He was then promoted.

Weaknesses alleged by employees included:

- Job duties fictionalized and distorted to eliminate candidates.
- Selections based on "paper qualifications" rather than experience.
- Not enough candidates considered.
- Inadequate posting of job vacancies.
- Selection of unqualified people.
- Reverse discrimination.
- Political influence. (See ch. 3.)

Regarding the selection process, one regional director said he had no influence on the hiring of two of his district directors and one branch manager, nor did he meet them until the central office had sworn them in for duty. Some supervisors said they had little influence on selecting who would be working for them.

#### Reassignment and separation

Fifty-seven employees rated reassignment and separation practices poor. Of these, 40 stated that SBA used transfers punitively to force resignation or retirement. Thirty believed SBA has replaced and downgraded employees unfairly. Such transfer and reassignment situations as the following contributed to adverse attitudes.

- An employee alleged irregular actions by a district director. The regional office investigated the charges and confirmed them. The regional director instructed the district director to correct the situation, and the matter was then considered closed. The district director later determined who made the allegations against him and rated the employee "below average" in cooperation and leadership on her annual performance evaluation. She had been "above average" in these categories on her previous year's rating. She filed a grievance, and the examiner found in her favor. Her ratings were then raised to "average" in the two categories. Later the employee was notified that her GS-7 level position was being abolished because of a re-alignment within the region. As an alternative to separation, she was offered a GS-3 level position in

the district office or a GS-7 level position in another district office. She accepted the downgrade under protest and appealed to the Commission. She also filed a discrimination complaint with SBA. While her appeal to the Commission was still pending, SBA assigned her to the position of loan servicing assistant at her previous grade, GS-7, with back pay equal to the amount lost due to her reduction from GS-7 to GS-3. This was done in exchange for the cancellation of her appeal and in full settlement of her discrimination complaint. SBA officials denied that the reduction-in-force (RIF) action was punitive. They stated that it was part of a re-alignment of the regional office and that two other district offices were involved. We noted that at one office no employees were adversely affected, but that two were affected at the other.

- In early 1973, four employees in one region filed a complaint with the Commission on the basis that their transfers to other districts were improper and deprived them of their rights. The Commission found that the reassignments were within SBA's administrative authority.
- Employees in the same region cited another 1970 case involving the mandatory transfer of an employee. It ultimately went to the Commission's board of appeals and review where it was found SBA had abused its discretionary rights in transferring the individual and then removing him for absence without leave and failure to report to a new duty station. The board reversed the removal action and recommended that the individual be restored to the position and grade. The board also recommended that the reassignment action be voided.
- Employees in one district office reported that several transfers, reassignments, and two firings occurred as a result of allegations regarding improper loan practices. Some employees resigned or retired rather than accept transfers. One held the view that with the exception of those fired, the remaining employees were "arbitrarily transferred \* \* \* against their will" and were innocent. We interviewed some of these employees at their new locations; they indicated their transfers were involuntary.
- A regional office employee was downgraded from GS-15 to GS-14 by a RIF action. A Commission audit 4 months later showed that the action did not meet regulations,

and SBA was ordered to restore the individual's grade. Six months later, SBA notified him that his reduction-in-grade had been rescinded as of the time it had occurred. Two weeks after this notice SBA gave him the option of reporting for duty in Washington, D.C., in about 6 weeks, separation for declining the transfer, or retirement. He retired.

--Some employees alleged favoritism by transfers. Examples included three who were transferred to a warm-climate city popular with retirees. One was 67 and died 2 months after the transfer. Another filed for disability retirement about 12 months after his transfer. The third was 61 and is still working. The total estimated Government expense to move the three employees was nearly \$25,000.

Regarding transfers, travel, reassignments, and downgrades, the SBA Administrator stated:

"Such actions are not used for reward or punishment. There have, of course, been downgrades and reassignments, some of which have involved geographic relocation. These have been accomplished in accordance with applicable Civil Service regulations and have been made after a determination that the action would serve the best interests of the service. To be sure, some have resulted either from the poor performance of the individual concerned or by an effort to improve his utilization through an assignment more commensurate with his skills and abilities."

### Recognition

One hundred and five of the employees interviewed believed recognition practices were poor. Opinion among the 105 was divided; some felt there was not enough recognition, primarily incentive awards, whereas others felt there were abuses in granting awards. Complaints included:

--Awards not given (18 responses 1/).

--Deserving personnel not recognized (12 responses).

--Certain work groups receive fewer awards (7 responses).

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1/ Included 12 responses from 1 office. The district director stated he recognized the need to do a better job of promoting incentive awards.

- Some supervisors do not make award recommendations (7 responses).
- Undeserving receive awards (14 responses).
- Favoritism shown (8 responses).
- Same people always receive awards (7 responses).
- Awards used as substitute for promotion (5 responses).

### Promotions

Eighty-six of the interviewees said promotion practices were poor, most frequently citing these:

- Preselection of favorites (56 responses).
- Political influence (47 responses).
- Few and/or slow promotions (22 responses).
- Not promoting the best qualified (22 responses).

We could not prove the above allegations. Further, their nature makes it doubtful they could be proven.

### Performance evaluation

Sixty-nine of the interviewees rated performance evaluation practices poor. Among the most frequent reasons cited were:

- Employee not kept informed of this progress (35 responses).
- Employee informed of progress only during annual performance rating (12 responses).
- Employee unclear on quality of work expected (21 responses).

Other factors mentioned included (1) no rating counseling, (2) rating subjective, (3) overrating, and (4) supervisor lacking knowledge of what subordinates do.

### Training

Sixty-nine of those interviewed rated training practices poor for the following reasons:

- No training received (exclusive of on-the-job training) for current or future job (36 responses).
- No training information available (23 responses).
- No encouragement to develop skills and abilities (32 responses).
- Training abuses--e.g. favoritism (17 responses).

Other adverse comments included: (1) training needs not discussed with employees, (2) training opportunities limited by lack of funds, (3) very little training below the GS-11 grade level and (4) ineffective training.

### EEO

Forty-three of the interviewees believed EEO practices were poor. Among the allegations made were discrimination against women, minorities, and older workers. Reverse discrimination was also alleged.

Reasons stated for believing that women are discriminated against included these:

- Women lack professional opportunities (1 response).
- Men start at higher GS ratings (1 response).
- Women are in temporary positions longer than men (1 response).

Some people believed racial discrimination existed because few blacks occupied supervisory or professional positions. Others stated that hiring standards have been lowered for minorities. With respect to age discrimination, some believed that older employees were passed over for promotion.

SBA headquarters officials stated that the agency's EEO action plans for fiscal years 1973 and 1974 attempted to place minorities and females in technical and professional positions not previously held. The fiscal year 1975 EEO plan established a goal for minority or female employees of 25 percent of all promotions and hirings in GS-7 and above positions.

### PERSONNEL MANAGEMENT EVALUATIONS

During the period July 1972 to August 1974, the Commission evaluated personnel management in 9 of the 10 SBA standard federal regions and issued 22 reports. Thirteen were prepared

by joint Commission-SBA evaluation teams. Of the eight regional offices included in our review, six had been evaluated in the last 3 years and nine reports had been issued. The reports disclosed deficiencies in areas such as merit promotion (six regions), position management and classification (six regions), performance evaluation (two regions), career development (five regions), recruitment and manpower planning (six regions), and EEO (six regions). The reports were problem oriented and generally consisted of 1- to 3-week examinations by 4- to 11-man teams. We determined that SBA generally had taken corrective action on Commission recommendations.

These evaluations are regular on-going functions of the Commission and have a dual purpose: (1) assuring that agencies are carrying out their personnel operations according to law and Commission regulations and (2) identifying problems and helping agencies improve their personnel management programs and operations. Following an evaluation the Commission sends a report to the agency, which considers and acts on the findings and any required or recommended corrective actions. Agencies must report on mandatory corrective actions. As resources permit, the Commission follows up with agencies to improve their personnel management. Problems identified in evaluation reports are usually policies or practices that could be improved, not violations of law or regulation.

The SBA Administrator stated the personnel management evaluation program, conducted jointly with the Commission since October 1971, was established to identify strengths and weaknesses, recommend improvements, and provide guidance and assistance throughout SBA. He said that the program "has proven both effective and useful." Four regional directors also commented on the evaluations:

- "The personnel evaluations are effective. We learned a lot from them."
- "The evaluation was a healthy exercise and useful in most respects."
- "The findings and recommendations will be of valuable assistance in implementing an improved personnel program."

One regional director felt the reports "too general" to be useful management tools.

An SBA summary of problems common to its regions as of April 1974 is shown in appendix III. Typical Commission findings and conclusions at various field offices for the four most problem-prone areas are shown below.

### Merit promotion

- Employees were reassigned to positions with known promotion potential and from one career ladder to another without competition.
- Exceptions to competitive promotions were improperly used.
- Competition for positions was restricted to SBA employees.
- Promotion records were incomplete or nonexistent.
- Well-defined career ladder positions were lacking, resulting in irregular use of merit promotion procedures.
- Performance levels were not always documented in official records to help regulate career promotions.

### Position management and classification

- Positions were incorrectly classified; some were graded too high and others too low.
- Position descriptions were inaccurate.
- Whitten reviews 1/ were not conducted.
- No formal position-management program existed.
- Classification goals were not implemented.
- Training for supervisors in position management and classification was needed.

### Recruitment and manpower

- Personnel were insufficient and lacked experience.
- Basic staffing needs were not achieved.
- RIF actions were improperly documented.

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1/ Annual classification review of all positions by agency management which then certifies to the Congress that the positions are essential and that classifications are accurate.

- Many managers felt no personal responsibility for developing staffing criteria or for recruiting.

#### EEO

- Program structure and management were inadequate.
- Female employees were concentrated in lower grades.
- Employees did not have a voice in the Affirmative Action Plan.
- The regional director wrote no annual statement supporting program objectives.
- The EEO Officer had insufficient time to devote to programs.
- The Affirmative Action Plan was not specific and did not identify problems and corrective actions.

#### TOP MANAGEMENT VIEWS ON STRENGTHS AND WEAKNESSES OF PERSONNEL PROGRAMS

The Administrator stated that since his job began in 1971, SBA's personnel management program has been significantly upgraded. Further, he believed that the current status of the program compares favorably with other Federal agencies. Some of the positive achievements he noted were:

- Upgrading the office of personnel by (1) adding new positions and changing others, including a new director at the supergrade level, and (2) developing and implementing a career system for all SBA personnel specialists.
- Developing a series of comprehensive training programs to improve supervisors' and managers' operational, technical, and personnel management capabilities; and training over 300 supervisors and managers agencywide.
- Developing and implementing a Finance and Investment Career System, covering approximately 25 percent of the work force, to improve work force quality and expedite filling positions with better quality candidates.
- Establishing a position-management program to assist managers in establishing and maintaining efficient and economical organization and position structures.

The Administrator believes no serious program deficiencies currently exist. Effort and attention are, however, being given to improving:

- Labor relations.
- Employee counseling and advisory services.
- Grievance procedures.
- Employee morale.
- Service to the field.
- Field self-evaluation systems to help pinpoint areas of concern.
- The employee suggestion program.
- Supervisory training.

We also asked 32 top field management officials - regional directors, district directors, assistant regional directors for administration--in 8 regions for their opinions on strengths and weaknesses in SBA's personnel management programs. There was no consensus on any specific area, but the following were cited as strengths in two or more regions:

- Training (nine individuals, six regions).
- Merit promotion (five individuals, four regions).
- Upward mobility (four individuals, four regions).
- Selection process (three individuals, three regions).
- EEO (two individuals, two regions).

The remaining views ranged from "no strengths cited" (seven individuals) to "the entire system is good" (one individual).

Weaknesses cited in two or more regions were:

- Selection (six individuals, four regions).
- Lack of staff (six individuals, four regions).
- Recruitment (four individuals, three regions).
- Merit promotion (four individuals, three regions).

--Position classification (three individuals, three regions).

--Inadequate performance (three individuals, three regions).

Aside from alleged merit system violations, slow processing of personnel actions was the major weakness cited in the selection, recruitment, and merit promotion areas. Seven individuals indicated there were no weak areas.

### CONCLUSIONS

Our evaluation of SBA employees' comments and our study of routine Commission reports on SBA's personnel management showed that although the Agency has experienced problems, they were recognized and corrective action requested by the Commission was taken. Moreover, the majority of SBA employees had positive attitudes about current personnel practices.

Several employees believed certain practices were poor; however, most did not elaborate on the reasons for their views. When specific allegations were made, we attempted to determine their validity but were generally unable to document and prove that individual actions were improper. Most personnel actions involve the subjective decisions of management, and it is extremely difficult to question these decisions without adequate documentation.

SBA, cooperating with the Commission, is continuing the systematic review of personnel management at field offices. The results to date have been accepted by management and according to the Administrator have been helpful in developing meaningful improvements.

### CHAPTER 3

#### ALLEGED VIOLATIONS OF MERIT SYSTEM

Partisan political consideration in filling positions in the Federal career civil service is prohibited by 5 U.S.C. 3303, which states:

"An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant".

Executive Order 11222 also prohibits any action which might give or create the appearance of giving preferential treatment to any person.

Commission rules 4.2 and 7.1 prohibit racial, political, or religious discrimination in any personnel action involving an employee or a candidate for employment in the competitive service. Appointing officers, when exercising their discretion in filling vacancies, must make their decisions solely on merit, regardless of political or religious affiliation, marital status, or race.

#### POLITICAL REFERRALS TO SBA

In reviewing SBA regional office and central office correspondence files for fiscal years 1970 through 1974 we found numerous employment recommendations from congressional and other sources that in our opinion go beyond the applicants' character or residence. Excerpts from a few of these follow:

"We [two U.S. Senators] are pleased to submit the name of \* \* \* for consideration for the position of Regional Director \* \* \* We feel \* \* \* is eminently qualified and, of course, will appreciate your favorable consideration."

\* \* \* \* \*

"\* \* \* I am pleased to recommend him for your serious consideration \* \* \* He is a Republican \* \* \* Any consideration that you can give to him for this position will be appreciated."

\* \* \* \* \*

"\* \* \* It is my understanding you have also received correspondence from both Senators \* \* \* in this regard. \* \* \* The Congressman \* \* \* wanted me to let you know he has no hesitation whatsoever in giving \* \* \* his strongest possible recommendation. Any consideration you may be able to give in this regard will be most appreciated" [written by the Congressman's administrative assistant].

\* \* \* \* \*

"\* \* \* I ask that you consider him favorably and regard this letter as my endorsement of him."

\* \* \* \* \*

"\* \* \* I wish to take this opportunity to endorse \* \* \* application and express my hope that you will be able to employ \* \* \* in a position commensurate with his talents and qualifications \* \* \*"

\* \* \* \* \*

"\* \* \* I would certainly appreciate anything you could do for \* \* \* I also want to \* \* \* thank you in advance for your cooperation and thorough consideration of \* \* \*"

\* \* \* \* \*

"\* \* \* It would be appreciated if he is given every consideration and I am informed of any action taken on his application."

\* \* \* \* \*

"\* \* \* I am well aware that \* \* \* is only a GS-9, but according to the civil service, if you are willing to sign an affidavit saying that \* \* \* has been doing the job of a GS-12, which I am sure that he has been doing it, [sic] they are willing to consider him for a GS-13 rating \* \* \* and with your help \* \* \* can become our next branch manager."

\* \* \* \* \*

"Like the saying goes, 'where there is a will there is a way'. And that is exactly what is standing between \* \* \* and the Branch Manager position. If you really want to help him, you can help him. I know it, you know it, everybody knows it" [Letter from a local party official to an SBA regional director.]

One regional director who before coming to SBA had been active in several political campaigns stated that he was offered the position by a U.S. Senator. Three men who are still employed by SBA in other positions said that political considerations probably played a part in their original appointments to district directorships in 1963 and 1964. The alleged political motivation behind removing one of these individuals from his district directorship was discussed in a Commission report. An assistant regional director stated that a U.S. Senator helped him get his job, but saw nothing wrong in it.

It is difficult to document how much influence referrals had on selecting officials. We believe, however, political referrals are difficult to ignore and place undue pressure on the appointing officials.

#### COMMISSION INVESTIGATIONS

During the past 2 years the Commission alleged widespread abuse of the merit system in some agencies, involving special personnel referral systems which gave preferential treatment to individuals sometimes for political purposes. Reports on the conditions found at SBA and two other agencies, have been made public by the House Subcommittee on Manpower and Civil Service.

In August 1974 the Commission issued a report to the SBA Administrator entitled "Alleged Political Influence in Personnel Actions at the Small Business Administration." The report concluded that:

--"Sponsorship by partisan political figures, political affiliations, and political clearances were factors in the selection of four district directors in SBA; in the absence of a viable staffing plan for district director positions, SBA has permitted a personnel management vacuum to exist in which political interests are allowed to influence appointments to these key positions."

--"A number of improper or illegal personnel actions have been taken by SBA as a result of efforts to provide preferential treatment to some candidates and employees; and in some cases, the personnel actions which resulted from the preferential treatment were based on considerations of political support."

The Commission recommended and the SBA Administrator agreed to (see app. IV):

- Develop and implement a merit plan for filling SBA district director position vacancies.
- Review and revise as necessary internal SBA policies on recruiting and staffing.
- Review and revise as necessary current procedures for receiving, considering, handling, and disposing of applications for employment.
- Conduct a comprehensive study of SBA district director positions to assure that grade levels conform to position classification standards.

We believe that these policies and procedures, if effectively implemented, should strengthen SBA's overall personnel system and alleviate existing and perceived problems involving district directors' appointments.

The Commission also recommended that

"Disciplinary action should be considered with respect to certain SBA officials who violated personnel laws or were otherwise responsible for such violations on the part of their subordinates or other employees."

It issued a letter of admonishment to one SBA official and directed that two other alleged violators of personnel laws be disciplined. During our study, these two were disputing the Commission's charges, and the matter was before a Commission administrative law judge. (See p. 27.)

The SBA Administrator responded to the Commission's report on October 7, 1974, and stated that he wanted to cooperate fully in correcting or improving procedures found deficient and implementing those not previously prescribed by the Commission. He stressed, however, that he did not necessarily agree with the findings on specific personnel actions, particularly since some of them

involved his office and the investigators did not interview him. He then mentioned the specific actions SBA had taken or planned on each of the Commission's recommendations.

#### ADMINISTRATOR AND COMMISSION VIEWS

The Administrator's response to our questions on the alleged violation of merit principles and the Commission's remarks on that response are included as appendix V and VI, respectively. The Administrator stated that he disagreed with the Commission report's conclusion that there was clear evidence of political or other nonmerit influences on appointments to SBA district directorships:

--"None of these individuals cited was appointed either in violation of CSC regulations or the SBA Merit Promotion Program. While, in each case, appointments were made as an exception to Merit Promotion procedures, the exception (appointment from a CSC register of an individual without prior Federal service) is one provided by Civil Service regulations. It is of interest to note that these exceptions were continued under the recently revised CSC regulations on Merit Promotion."

--"All of the district directors cited were appointed from Civil Service registers. In no instance did the inspection report indicate that the individual selected was not fully qualified or that he was improperly selected from a register."

--"It is of importance to note that all allegedly improper actions were taken in full compliance with applicable laws and Commission regulations. Contrary to what may have occurred with respect to similar situations in other Federal agencies, no corrective action was required by the Commission with respect to any of the allegedly improper personnel actions."

The Commission commented (see p. 75) that

"\* \* \* while certain technical legal and regulatory details may have appeared on the surface to have been complied with, it is clear from an examination of the cases reported that the true spirit and intent of personnel laws and merit principles were violated."

Regarding whether disciplinary action has been taken or is being contemplated in cases involving allegations that employees operated a political referral system, the Administrator did not concede that such a referral system ever existed. He added that it would be premature to act against some individuals because (1) they are contesting final resolution of the Commission's actions or (2) the Commission has not made charges against them. The Administrator said he desired a dialogue between SBA and the Commission to examine further the justification for the charges against the officials and to take additional evidence, if necessary, to prevent further damage to the reputation and financial condition of the employees involved. Further remarks on this issue are included in appendix VII.

The Administrator indicated that one of his first acts on assuming his position was to request that all contacts which might represent political pressure be referred to him; if any Member of Congress recommended a candidate, SBA would consider him along with other applicants and select the best qualified individual. The Administrator also stated that a clearer definition of what constitutes "political pressure" is needed and noted:

"In the four years that I have been in SBA, I have no idea whatsoever how many telephone calls I have received from Congressmen, Senators, and other individuals in the political arena regarding appointments, promotions, reassignments, loans, contracts, or other matters pertaining to SBA and its programs. Each one of these contacts might be interpreted as political pressure, otherwise why would they call me?"

"We have something in excess of 22,000 Congressional contacts in our Congressional Relations Office per year. If one wanted to, most of these calls could be interpreted as political pressure. Having been in Congress myself, I know and understand the working habits and the desires of these people. They are looked upon by their constituents as a point of contact and a source of recommendation. In this regard, we in SBA have been sensitive to their requests and will continue to be but we have not caved in to every whim and wish of a member of political scene in regard to our decisions in SBA."

#### EMPLOYEE OPINIONS

Although about 26 percent (133 of 518) of the SBA employees we interviewed thought that a system of political referrals or clearances might have existed in SBA, especially for key positions, we could not locate documents to support these allegations.

Thirty-seven percent (189) of those interviewed also believed political appointees had been placed in positions aspired to by careerists--primarily regional and district directorships which they alleged were changed in response to changes in the White House administration. Regarding this it should be noted that regional directorships are excepted positions--not subject to the usual merit system requirements--and appointments are at the SBA Administrator's discretion.

A review of 52 district director appointments from July 1969, through December 1974, showed that 25 were career SBA employees promoted to these positions, 5 were transfers from other Federal agencies, and 22 came from the private sector. We examined files on regional directors and district directors appointed between July 1972 and September 1974 and noted that eight (seven had no previous Federal experience) had been actively involved in partisan political activities or had used a political figure as a reference. One of these was named by the Commission in its report on alleged political influence; other directors named in the Commission report were not appointed during the timeframe of our examination.

#### RECENT ACTIONS TO STRENGTHEN THE MERIT SYSTEM

Because of serious alleged abuses of the merit system by various Federal agencies the executive branch has taken several steps to strengthen the system.

#### President's memorandum

On September 20, 1974, the President issued a memorandum to department and agency heads setting forth his commitment to merit principles and the civil service system. He said, in part,

"\* \* \* I call upon you to see to it that the merit principles contained in the Civil Service Act and the personnel laws and regulations are fully and effectively carried out \* \* \*. Appointments and promotions in the career service must not be made on the basis of either politics, race, creed or sex. \* \* \* I ask you to make sure your agency fully complies with both the letter and spirit of the law \* \* \*."

#### Commission memorandum and bulletin

In October 1974 the Commission followed the President's memorandum with a message identifying the most important

implications of the President's September directive and calling for personal commitments to the integrity of day-to-day personnel operations. The Commission also requested department and agency heads to report specific actions they were taking in response to the President's memorandum.

Commission officials subsequently met with agency personnel directors and outlined the Commission's three-phase approach to insuring the merit system's integrity.

The first phase, calling for immediate action in specific areas in which the Commission had identified potential for abuses, was sent to the agencies formally as a November 1974 Commission Bulletin requiring:

- Using a new certification statement with official position descriptions.
- Restricting the authority to make temporary limited appointments to meet special needs.
- Reviewing and certifying to the Commission all schedule C positions. 1/
- Designating an agency official to whom employees can provide facts without fear of reprisal if they believe laws or personnel rules have been violated.

The second and third phases, involving possible additional administrative actions and new legislation, are currently under Commission examination.

#### SBA response

In addition to the actions cited in its October 7, 1974, letter responding to the Commission report on alleged political influence in SBA's personnel actions (see app. IV), SBA advised the Commission in December 1974 that it had:

- Furnished copies of the President's September 1974 memorandum and the Administrator's personal statement reemphasizing SBA support of the merit system to all managers and supervisors.
- Furnished a summary of the President's memorandum to each SBA employee.

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1/Key policy-determining jobs having a close personal relationship to an agency head and which are excepted from the usual merit system requirements.

--Advised each employee that the General Counsel had been designated as the official to whom all allegations of noncompliance with personnel laws and regulations could be made without fear of reprisal and with assurance that appropriate inquiry and actions would follow.

--Issued a letter to each personnel specialist, technician and assistant regional director for administration asking that they fully respond to the letter and spirit of the laws and regulations, and directed them to refrain from considering nonmerit factors in a personnel action, whether proposed by an applicant, an outside sponsor, or an operating official.

--Issued instructions regarding the consideration, processing and disposal of applications from political and other sources.

We believe these measures will help to restore SBA employees' confidence in the merit system.

#### Congressional concern

On March 4, 1975, the House Subcommittee on Manpower and Civil Service began a series of investigative hearings to review violations and abuses of merit principles in Federal employment. The hearing's objective was to consider in depth the results of all investigations of alleged improper activity throughout the Federal Government and review the effectiveness of corrective actions that had been or will be taken to strengthen the merit system and minimize possible future violations.

The Subcommittee intended to broaden its inquiry into the civil service system by reviewing administrative procedures, Executive orders, rules and regulations, and statutes establishing the merit system. From such a review the Subcommittee hoped to determine if additional corrective legislation or other action is necessary to strengthen public and employee confidence in the Federal career public service. The Subcommittee plans to call top officials from SBA to answer under oath certain allegations on political influence in hiring some key officials.

Testifying before the Subcommittee, the Commission Chairman pointed out that a Member of Congress, political partisan, or any other source may legally refer an individual to a Federal agency for possible employment. The Commission found illegal and improper in its investigations not the referrals themselves but the way they were handled; it identified

special referral systems through which some people gave preference to certain candidates for competitive positions. Such referral systems were separate from the agency personnel office, and applications were sometimes referred directly to operating officials, bypassing personnel channels.

The Commission Chairman added that although the Commission uncovered relatively few abuses in comparison to the total number of personnel actions, the violations were serious and had damaged the credibility of the merit system and adversely affected the morale of civil servants.

#### Proposed legislation

On March 20, 1975, a bill <sup>1/</sup> to amend 5 U.S.C. and provide that appointments in the competitive service be made without regard to political recommendations was referred to the House Committee on Post Office and Civil Service. This proposed legislation would generally prohibit making or transmitting to any officer or employee of the United States any recommendation or statement about a person who requests or is under consideration for an appointment, promotion, assignment, or transfer unless the statement

- is furnished pursuant to a request or requirement of the agency and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of the individual;
- relates solely to the character and residence of such person;
- is furnished pursuant to a request by an authorized representative of the United States solely to determine whether such person meets the loyalty, suitability and character requirements for Federal employment; or
- is furnished by a former employer of such person pursuant to a request of the concerned agency and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such person during his former employment.

We believe the proposed legislation would clear up procedures for handling referrals and help to prevent merit system abuses.

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<sup>1/</sup> H.R. 5230, 94th Congress, 1st Session. The bill was re-introduced on May 15, 1975, as H.R. 7015.

## CONCLUSIONS

The President, the Congress, the Commission, and SBA have acted to help protect the merit system, and their concern, coupled with continued Agency and Commission evaluations, should foster confidence in the Federal personnel system. The situation, however, was best summarized by the Chairman of the Commission in his statement before the Subcommittee on Manpower and Civil Service:

"No set of workable procedures can be made tamper-proof, however. In the end it is not the procedures that are critical but the people who carry them out."

During our study, some individuals named in the Commission's report were disputing the charges and the matters were before a Commission administrative law judge. <sup>1/</sup> Further, the Subcommittee plans to call top officials from SBA to testify on alleged abuses. We do not believe it is appropriate to comment on specific cases that are the subjects of legal and Subcommittee reviews.

Some SBA employees alleged or implied that district directorships were "political" positions; however, we were unable to prove or disprove this allegation. SBA files contained employment recommendations from congressional sources that in our opinion go beyond the applicants' character or residence. While the official examining an applicant may legally consider such references, they are difficult to ignore and put undue pressure on the examiner. In view of Executive Order 11222 and that over one-third of the SBA employees we interviewed believed political appointees, primarily district directors, had been placed in positions aspired to by careerists, SBA should avoid even the appearance of preferential treatment of any person.

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<sup>1/</sup>Subsequent to our review the Commission dropped the charges because of insufficient legal or administrative authorities.

SBA OFFICES INCLUDED IN GAO STUDY

<u>Standard Federal region number</u>	<u>Central and regional offices</u>	<u>District or branch offices</u>
	Washington, D.C. (note a)	
I	Boston	Boston Providence Concord
II	New York	New York Buffalo (note b) Syracuse
III	Philadelphia (note c)	Washington, D.C. Richmond
IV	Atlanta	Atlanta Miami Birmingham
VI	Dallas	Dallas Albuquerque San Antonio
VII	Kansas City	Kansas City St. Louis Des Moines
VIII	Denver	Denver Casper Helena
IX	San Francisco	San Francisco Los Angeles San Diego

a/Central office

b/Branch office

c/Regional office not visited

ANALYSIS OF "POOR RESPONSES" FROM GAO INTERVIEWS OF  
SBA EMPLOYEES

Office (note a)	Total poor responses		Recruitment		Selection		Reassignment/ separation		Recognition		Promotions		Performance		Training		Equal employment opportunity	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Number	Percent
Central Office	44	8	5	7	4	6	2	4	6	6	6	7	9	13	7	10	5	12
Boston Region	36	6	6	8	6	9	3	5	2	2	2	2	7	10	5	7	5	12
New York Region	84	15	10	14	10	16	6	11	22	21	14	16	9	13	8	12	5	12
Atlanta Region	48	8	11	15	9	14	2	4	5	5	10	12	3	4	3	4	5	12
Denver Region	89	16	8	11	10	16	17	29	15	14	15	17	9	13	9	13	6	13
San Francisco Region	76	14	10	14	7	11	8	14	17	16	12	14	12	17	8	12	2	5
Kansas City Region	53	9	5	7	3	5	6	11	9	9	9	11	6	9	11	16	4	9
Dallas Region	79	14	11	15	11	17	9	15	13	12	12	14	6	9	11	16	6	13
Other (note b)	57	10	7	9	4	6	4	7	16	15	6	7	8	12	7	10	5	12
<b>Total</b>	<u>566</u>	<u>100</u>	<u>73</u>	<u>100</u>	<u>64</u>	<u>100</u>	<u>57</u>	<u>100</u>	<u>105</u>	<u>100</u>	<u>86</u>	<u>100</u>	<u>69</u>	<u>100</u>	<u>69</u>	<u>100</u>	<u>43</u>	<u>100</u>
Percent of total	100		13		11		10		19		15		12		12		8	

a/ Regions include district offices reviewed (see app. I).

b/ Miscellaneous district offices where regional office was not reviewed.

PROBLEM AREAS COMMON TO SBA REGIONS (note a)EMPLOYMENT

1. Establish career ladders (in writing) wherever possible for professional and clerical occupations in the field (tie-in with classification).
2. Intensify recruiting and staffing efforts in regard to minorities and women.
3. Intensify staffing efforts (realistically) for the handicapped mental retardates and Vietnam Era Veterans.
4. Develop an annual manpower planning document that anticipates staffing needs for coming fiscal year to help reduce the time required to fill expected vacancies.
5. Develop and maintain accurate and meaningful turnover records and studies to identify high turnover areas that need more attention for solution.

MERIT PROMOTION

1. Assure that staffing personnel are interpreting and applying qualification standards properly.
2. Assure that MPP file folders are fully documented to justify selections and show that proper procedures were applied to all applicants.
3. Assure that managers, supervisors and employees have a good knowledge of SBA MPP procedures to avoid false impressions.
4. Assure that the job-related criteria used in the ranking process are fully identified.

POSITION MANAGEMENT

1. Develop and implement a full position management program and committee.
2. Assure that both the personnel staff and managers and supervisors fully understand their position management responsibilities.

POSITION CLASSIFICATION

1. Assure that managers and supervisors fully understand their classification responsibilities.

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2. Assure that the annual classification review and audit schedule is carried out in a meaningful manner to local management.
3. Assure that the full performance levels are identified for all occupational series where practical.

#### TRAINING

1. Develop and implement training programs in position management and classification, merit promotion, labor relations and EEO to assure that managers and supervisors understand their personnel management responsibilities and how it relates to the personnel staff.
2. Develop and implement a meaningful system to plan for and evaluate the effectiveness of training.
3. Assure that managers and supervisors fully understand their responsibilities to identify, counsel and recommend training for their employees.
4. Assure that meaningful training records are maintained and adequate budget is allocated to carry out training plans.

#### EMPLOYEE RELATIONS

1. Develop and implement procedures to assure that managers and supervisors are being properly evaluated on their EEO performance.
2. Evaluate all aspects of the suggestion program to assure its responsiveness to both employees and management.
3. Evaluate present labor relations programs and develop and implement meaningful LMR programs that will improve labor-management relations.
4. Assure that performance appraisals are conducted when due and that manager and supervisor appraisal judgment is free of top level influence.

#### EQUAL EMPLOYMENT OPPORTUNITY

1. Assure that the Regional Director issues an annual statement of his full endorsement and backing of EEO principals.
2. Assure that EEO Affirmative Action Plans are updated each year and that objectives indicate specific actions and are not just policy statements.
3. Develop and maintain meaningful statistics that can be reassured to show EEO progress.

4. Broaden employment opportunities for minorities and women.
5. Revitalize the Upward Mobility program through meaningful placement actions as most efforts have not progressed beyond the announcement and qualifying stages.
6. Assure that the Federal Women's Program shows improvement through more positive effort.
7. Establish a functioning EEO committee.

PERSONNEL PROGRAM SELF-EVALUATION

1. Establish priorities for program improvement by personnel staff.
2. Develop and implement an internal self-evaluation program.
3. Develop meaningful criteria to evaluate the effectiveness of the local personnel staff.
4. Improve on the quality and timeliness of quarterly self-evaluation reports sent to the Central Office.

a/Compiled by SBA from a review of 1972-74 Commission and SBA personnel management evaluations of SBA field offices.

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U.S. SMALL BUSINESS ADMINISTRATION

WASHINGTON, D.C. 20415

OCT 7 1974

OFFICE OF THE ADMINISTRATOR

Mr. Bernard Rosen  
Executive Director  
U.S. Civil Service Commission  
1900 E Street, NW.  
Washington, D.C. 20416

Dear Mr. Rosen:

This letter is in response to the CSC report on Alleged Political Influence in Personnel Actions in the Small Business Administration, which was received August 19, 1974.

As I am sure Assistant SBA Administrator for Administration Coleman made quite clear at a meeting with representatives of the Commission in connection with this letter, the Agency and I want to cooperate fully in correcting and improving those procedures found to be deficient, or in installing procedures not heretofore prescribed by the Commission. Having said that, I want to stress that I am not necessarily agreeing with the Commission's findings on specific personnel actions discussed in the report, particularly since some of these matters involve my office and the Commission's investigators did not even deem it appropriate to interview me.

With respect to required action No. 1, Attachment No.1 (Recruitment Plan for District Director Vacancies) represents the improved procedure to be followed by all Agency personnel in filling SBA District Director position vacancies.

With respect to required action No. 2, a thorough review has been conducted of all appropriate SBA policies concerning recruitment and

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staffing. These include SOP 32 52 Delegation of Personnel Authority, SOP 33 00 Recruitment and Appointment, SOP 33 05 Executive Assignment Board, SOP 33 35 1 SBA Merit Promotion and Placement Program. This review reveals that personnel laws, merit principles, related executive orders and CSC rules, regulations and policies established by the Agency have been previously, clearly set forth (Attachment No.2). In addition to the aforementioned basic policy guidance, the Agency has continually kept appropriate officials informed of their responsibilities under the merit system. Attachments No. 3 (pamphlet entitled: The Federal Manager's Responsibilities Under the Merit System, April 23, 1974 and Special Notice, subject: Guidance Regarding Appointments to the Federal Service, April 15, 1974) are current examples. Other positive steps that were under way prior to our receipt of your report was the development of a two and one-half day Personnel Management Institute for District Directors. The first session for 12 District Directors began September 24, 1974. A significant part of this Institute concerns their responsibilities in adhering to applicable laws, CSC regulations and SBA policy governing the recruitment and selection of employees. The Assistant Administrator for Administration and the Director, Office of Personnel are scheduled to begin a series of conferences in October with regional management. The purpose of the conferences is to improve the understanding and acceptance of correct personnel management practices.

Attachment No. 4 (SOP 32 00 Personnel Management in SBA) is a draft SBA policy, soon to be published, which in one policy document explicitly

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assigns responsibility, assigns the necessary oversight with respect to that responsibility, and states clearly that necessary corrective action and/or disciplinary action will be taken when violations of appropriate Agency policy, CSC regulations and laws occur.

With respect to corrective action No. 3, Attachment 5 (Consideration of Outside Applicants for Vacancies) will be issued under the Office of Personnel's Special Notice System to managers, supervisors and personnel staffs throughout the Agency and will govern the receipt, consideration, processing and disposal of applications for employment. This will assure strict compliance with the Agency's Merit Promotion Program SOP 33 35 1, Section 7, 1 of CSC Rule 7; Section 4.2 of CSC Rule 4; 5 USC 3303; and EO 11222, Part IV Section 403(c).

With respect to corrective action No. 4, Attachment No. 6 (draft Special Notice, subject: Clarification of Grade Level Evaluation Method and Criteria for District Director Positions) will be issued in a few days and will assure that the grade levels assigned to District Director positions are in strict compliance with relevant position classification standards. An evaluation analysis of all District Director positions within the Agency will be completed by June 30, 1975.

Sincerely,

Thomas S. Kleppe  
Administrator



U.S. GOVERNMENT  
SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

January 29, 1975

Mr. David P. Sorando  
Deputy Director  
United States General Accounting Office  
Washington, D. C. 20548

Dear Mr. Sorando:

Attached are my responses to the 14 questions submitted on December 10th by members of your staff. The answers are complete and accurate to the best of my knowledge. Several of my answers, particularly as they relate to the details of individual personnel actions indicated in my answer to question #13, are based upon data and information submitted to me by members of my staff. It would be my desire that the names of individuals identified in item #13 be considered confidential. They have been furnished to facilitate your review but with the hope that your report might still be made without their disclosure. I would be pleased to make available such pertinent correspondence contained in the files of this office, as suggested in your December 10th communique, upon request.

During my four years tenure as Administrator of SBA, I have directed my staff, and have striven personally, to improve all aspects of operation, including the personnel function. I am proud of our accomplishment; I believe we have one of the finest personnel programs in the Federal Government. I welcome the opportunity, as I have stated in the past, to be interviewed personally by appropriate officials; to make all pertinent correspondence available; to cooperate freely in every way possible; and to appear before Congress should such action be desired.

I look forward to your review and am confident that the results will provide much better perspective of our personnel actions than has been experienced heretofore.

Sincerely,

Thomas S. Kleppe  
Administrator

RESPONSES TO GAO QUESTIONS OF DECEMBER 10, 1974

1. In detail, what do you believe are the strong features and weak areas of SBA personnel programs and management?

Since my incumbency as Administrator, in January 1971, the personnel management program in SBA has been significantly upgraded in all personnel functional areas. I believe that the current status of our personnel programs, and their management, compares most favorably with those of other Federal agencies and that substantial and meaningful program improvements have taken place both in the Central Office and Agencywide. I should like to highlight some of the personnel achievements in the following paragraphs. I am, also, attaching a summary of Office of Personnel accomplishments for Fiscal Years '72, '73, '74 and '75 (to date):

A. Office of Personnel capability

The following are significant activities which were designed to increase the competence of the personnel staff:

- (1) The managerial staff was upgraded by the appointment of a new Director (in August, 1971), and the elevation of this position to supergrade status, and new Chiefs for Employment, Organization and Position Management, Training, Employee Relations, Policy Development and Program Evaluation. Additionally, there were established positions of an Associate Director and an Assistant Director for Executive Manpower.

- (2) Key staff were added by the appointment of a number of highly qualified senior professionals,
- (3) A professional development program was inaugurated within the Office of Personnel,
- (4) A Career System for all SBA personnelists, Central Office and field, was developed and implemented.

#### B. Programs and Systems

- (1) The training program was completely revitalized and a series of comprehensive training programs for supervisors and managers, to improve their operational and technical proficiency, as well as their personnel management capability, was developed and over 300 trained Agencywide.
- (2) A Finance and Investment Career System, covering approximately 25% of the workforce was developed and implemented to improve the quality of the F. & I. workforce and to expedite the filling of positions with better quality candidates.
- (3) A Position Management Program to assist managers in establishing and maintaining efficient and economical organization and position structures was established and is fully functioning.
- (4) An on-site Personnel Management Evaluation Program was established to survey the personnel management programs at the regional and district level, to identify strengths and weaknesses in the programs, to make improvement recommendations, and to provide guidance and assistance.

(5) A framework of policies, procedures, standards and guidelines designed to contribute directly to the effective accomplishment of the SBA mission, has been instituted.

(6) An innovative and comprehensive personnel program planning and self-evaluation system was developed and implemented for the Central Office and the field.

(7) An automated personnel processing system was developed and installed.

(8) Early in 1972, the Executive Development Program was redesigned and reenergized, utilizing the most advanced techniques of assessment and individual development planning. The system is now well-developed and 125 potential and active executives have been identified and are receiving developmental assignments. Both short and long-range planning have contributed to the increasing placement of internal candidates into top-level managerial positions. A survey conducted approximately six months ago indicated that over 70% of our top level positions were filled from within.

(9) The establishment of a video communications network linking the field with the Central Office to increase management/supervisory training.

(10) A new merit promotion plan, designed to expedite the filling of positions with better quality candidates, has been implemented.

### C. Development of Field Personnel Programs

(1) Personnel Conferences were held in 1971, 1972 and 1974, attended by administrative officers and regional personnelists throughout the Agency. The 1974 conference was a 3-day skills-oriented session attended by all SBA personnel staff members.

(2) Numerous staff visits have been made to the field to provide on-site guidance and assistance.

(3) A Special Notice publication series was developed to provide greater guidance to field personnelists in implementing field personnel programs.

(4) Commencing in June 1971, each of the 10 regions, and its district offices, have had an on-site two-week program evaluation survey. The evaluation cycle has been completed twice; i. e., each region has had two such surveys.

(5) A program was established aimed to achieve full personnel delegation to the field through grade GS-15 and to render increased staff assistance to the field geared toward helping them achieve and carry out this increased delegation.

### D. Assistance to Management

(1) Assistance was rendered in all phases of the 1973 field realignment, including development of functions, on-site guidance in personnel adjustments, and training programs for new functions.

(2) Eleven labor contracts (plus 2 in process) were negotiated, embodying greater flexibilities for management.

(3) There was greatly increased activity in position surveys and analytical studies, including more recent studies on Minority Enterprise and Management Assistance.

(4) There was initiated greater executive recruitment capability both in Central Office and the field. A recent example was a campaign which resulted in 1200 candidates for seven District Director positions. Four of these positions were eventually filled internally.

(5) Classification Studies were conducted for Procurement Center Representatives, Certificate of Competency Specialist, Public Information Officer and Loan Officer positions which resulted in sustaining current grade levels which had been challenged by the U. S. Civil Service Commission.

(6) There was successful achievement of average grade goals.

(7) Upward Mobility Program was developed which the U. S. Civil Service Commission is using as a model for other Federal agencies.

(8) An Executive Manpower Resources Board, composed of members from the Agency's Management Board, was established to provide greater top management involvement in the personnel area; an ideal organization structure and supergrade plan was formulated and presented to the CSC, with periodic updates.

With respect to weaknesses in the personnel management program, I am confident that there are no current serious program deficiencies and that

full, and more than satisfactory, coverage is being given to all phases of personnel management and administration. Nevertheless, there are areas to which we are directing effort and attention, where we feel that further advancements and improvements can be made. These are reflected in our program plans and include:

- a. Labor Relations
- b. Employee Counseling and Advisory Services
- c. Decentralization of grievance procedures
- d. Employee Morale enhancement
- e. Improvement of service to the field
- f. Further refinement of field self-evaluation systems to help pinpoint areas meriting concern and which can result in increased field competence.
- g. Improved employee suggestion program
- h. Expanded supervisory training

2. Do you have any recommendations for corrective action in problems identified in Question No. 1 above or any considerations for the Congress?

As indicated in the concluding paragraph in answer to Question No. 1 above, we are aware of those areas internally in which further steps toward progress is indicated and we are taking necessary actions to produce the desired results. Although, again, I would welcome the opportunity to appear before Congress if so desired.

With regard to the CSC, I believe there are a number of areas where improvements could be made, such as:

- a. A clearer definition of what is political pressure - what is not. If the CSC truly wants to end any possibility of political pressure, let them exclude all Executive Branch career positions from references from Congress.
- b. A clearer definition of what a career, a non-career, and L.E.A. positions are.
- c. A reduction in CSC processing time (they were always unconscionably long and have recently been increased by 50%.) In one recent case, it took the CSC 11 months to resolve a single procedural question on the most minimal type of adverse action, a loss in status action. However, one again suspects CSC motives in such a ridiculously long delay.
- d. More positive assistance - the only meetings we have had with the CSC have been at our request and initiative.
- e. Greater recognition of the unique problems of smaller agencies in handling personnel actions.

3. Please comment on the effectiveness and usefulness of the periodic Civil Service Commission personnel management evaluation of SBA offices.

As indicated under Question No. 1 above, the on-site personnel evaluation survey system began in June, 1971. Since October, 1971, these on-site surveys have been conducted by a joint CSC/SBA team. While in the initial phases the team was led by CSC, the team leadership soon alternated between CSC and SBA. Of the 20 evaluations conducted, CSC and SBA have each led 10. Of the 6 joint CSC/SBA reviews planned for FY '75, SBA will lead 5 of the 6. This cyclical schedule was developed by the current Director, Office of

Personnel, soon after his entrance on duty. Given the status of the personnel program at that time, reliance could not be placed on what had happened in the past. The first evaluation cycle was completed in March 1973. This complete circuit was required to establish a data base. It emphasized personnel management problem identification in each of the regions and resulted in comprehensive reports and corrective actions to be taken. It provided us with both an assessment of our field personnel program and of our field personnel staff capabilities. The record evaluation cycle, which began in May 1973, was completed in November 1974. It was geared toward measuring improvements and program accomplishments based on a resolution of problems initially identified. This joint survey program between CSC and SBA has proven both effective and useful. It is regrettable that apparently the left hand doesn't know what the right hand is doing at the CSC. While the CSC field evaluation teams have been helpful, and as their reports indicate, have shown substantial improvement in SBA personnel programs, other offices of CSC seem bent solely on a biased, illogical, incomplete, "snap shot in time" approach designed solely to compare existing situations against some ethereal newly developed secret "ideal." One suspects motives other than a sincere attempt to improve the service.

4. Do you have any knowledge that qualification requirements for positions have been tailored to fit an individual's personal qualifications to assure his being selected for employment or promotion?

No. It is my understanding that virtually all of our positions are in the competitive service and hence CSC Handbook X-118, "Qualifications Standards for White Collar positions under the General Schedule," which is mandatory in application, is used. There are a few "Single-Agency" standards which have been approved for use in SBA by the Civil Service Commission. Virtually the only standards established by the Agency are those relating to Disaster Loan Making positions. More qualification standards were published in August, 1972 and are a matter of record.

5. Has political pressure been applied to make appointments, promotions, reassignments, or any other personnel action? Please relate the circumstances of your actions.

In the four years that I have been in SBA, I have no idea whatsoever how many telephone calls I have received from Congressmen, Senators, and other individuals in the political arena regarding appointments, promotions, reassignments, loans, contracts, or other matters pertaining to SBA and its programs. Each one of these contacts might be interpreted as political pressure, otherwise why would they call me?

However, I have contended and still do that these men are contacting me in good faith to let me know the character of the individuals involved are sound and solid and that they are residents of their areas. I would be less than candid if I didn't recite that some of the nicest letters I have received from Congressmen or Senators have been written as a result of my turndown of their requests based on a sound reason. On the other hand, I would be less than candid if I did not recite that I have been rather

can get because the job we have to do is very often a difficult administrative one and we cannot put up with mediocrity. I think clearly our record of appointments and the quality of people we have placed in the various jobs will stand this test above and beyond anything else that can be shown in the Federal Government structure.

On top of the personnel contacts I have received, I get literally hundreds on both the Republican and Democratic side that make certain recommendations to me with respect to individual program cases. I object to and resent any connotation that we have reacted improperly to political influence in our work at SBA. If one would sit beside me and listen to my conversations with many of these people in the political scene, they would know and understand how we have not bent to political pressures but, rather, have gone the route of quality in the case of people and in the case of loans, we have used our best credit judgment. On top of this, we have something in excess of 22,000 Congressional contacts in our Congressional Relations Office per year. If one wanted to, most of these calls could be interpreted as political pressure. Having been in Congress myself, I know and understand the working habits and the desires of these people. They are looked upon by their constituents as a point of contact and a source of recommendation. In this regard, we in SBA have been sensitive to their requests and will continue to be but we have not caved in to every whim and wish of a member of the political scene in regard to our decisions in SBA.

We do not have and did not have a political unit in SBA. One of the first things I did when I became Administrator was to request all contacts which might represent political pressure to be referred to me personally. That policy has never changed and so I handle all politically sensitive matters.

The net of the Civil Service castigating report could easily be interpreted as the following:

If you are a Republican and you recommend another Republican for an appointment and he turns out to be the best man and is appointed, according to Civil Service that violates the law. I say that is clearly unfair and discriminates and breaks another law all by itself. Some things in life are fair and some things are unfair and this Civil Service report falls in the category of being unfair and we are ready to stand up before any committee and court any place and so state.

6. To your knowledge, did anyone in SBA have access to or use a special personnel manual, known as the Malek Manual, which described ways of circumventing the merit system?

No. I never heard of such a manual until several months ago when reference to it appeared in the press.

7. Has your office maintained a list of political eligibles for filling SBA positions?

No, and we don't now and never have had a special referral unit either.

8. Have candidates for key positions been identified as to political party; has political party been a consideration for appointment or promotion?

Sometimes political party can be assumed by knowing the political party of an individual who refers a candidate for consideration; sometimes an applicant may mention it, particularly in a Schedule C position. However, appointments and promotions are made solely from among the best qualified for the position.

9. Are district directors normally provided from within SBA or from external sources? In the case of those hired from outside SBA, why could the position not be filled from within?

In filling district director positions, our aim is to get the best qualified candidate either from outside or within SBA. Of the current 64 district directors 34 were filled from within SBA and 30 from outside, as follows:

	<u>Internal</u>	<u>External</u>
Prior to 1969	8	2
CY 1969	2	3
1970	2	5
1971	3	5
1972	2	1
1973	9	7
1974	6	7
1975 (committed)	<u>2*</u>	<u>-</u>
	34	30

In each case where a non-SBA employee was selected, he was, in our judgment, the better candidate. It has been my constant objective, as

stated previously, to improve operations at SBA. For a number of reasons, not the least of which are CSC regulations which make inter-disciplinary training, experience, and promotions extremely difficult if not impossible, the government tends to develop excellent technicians, but not enough good general managers. To improve our operations in a reasonable period of time, it has been necessary to call upon resources from the private sector.

10. How are district directors recruited and selected? Is there a written plan for filling the positions based on merit staffing?

District directors are recruited and selected on a merit basis. In order to fill such positions with the best qualified person available, recruitment from the outside is generally accompanied by an internal search. For example, as mentioned in answer to Question No. 1 above, a recent recruitment effort to fill seven district director positions generated 1,200 applications. Three of the positions (San Francisco, Philadelphia and St. Louis) were filled from among outside candidates; four were filled from among SBA employees (Los Angeles, Pittsburgh, Wichita and Birmingham in process). A copy of our written plan for filling district director positions on the basis of merit staffing is attached (Special Notice N. 3-23, December 16, 1974). Although this plan is of recent date, it reflects the method of filling such positions which has been in use over the past several years.

11. Why do district offices, in relation to the regional offices, have little authority or control over hiring or other personnel actions?

District offices have complete control and authority over all their personnel actions, including appointments. While the district directors are selected by regional directors, who are next in line of authority, all other personnel

selections and all personnel actions involving positions below the district director are accomplished by that official or his subordinates. For reasons of efficiency and economy, personnel services are centralized in the regional offices, each of which is staffed by a group of professional personnelists. Because of the size of most district offices, it would be impractical for each to maintain a competent and trained personnel staff. The regional personnelists, in effect, work for the district director and process his personnel actions in accordance with legal and regulatory requirements.

12. Have the following been used for either reward or punishment by any manager in SBA?

To the best of my knowledge:

- A. Geographic rotation - No.
- B. Travel - No.
- C. Downgrades - No.
- D. Reassignments - No.

Such actions are not used for reward or punishment. There have, of course, been downgrades and reassignments, some of which have involved geographic relocation. These have been accomplished in accordance with applicable Civil Service regulations and have been made after a determination that the action would serve the best interests of the service. To be sure, some have resulted either from the poor performance of the individual concerned or by an effort to improve his utilization through an assignment more commensurate with his skills and abilities.

13. Commission report on alleged political influence at SBA

I have to disagree with the Commission conclusion that the "investigation produced clear evidence that persons were appointed to district director positions, which are in the competitive civil service, because of their political affiliations or support and other non-merit factors." Although some of the Commission's "facts" may be beyond dispute, conclusions based on those facts are far from clearly justified and, indeed, should be characterized as exaggerations. In addition, as I pointed out in our letter to the Commission on October 7, 1974 (which I understand you have a copy of) concerning the actions we took on their recommendations to improve our personnel procedures, I could not necessarily agree with their findings on specific cases since some of the matters involved my office and the Commission investigators did not even deem it appropriate to interview me.

It is my view that the report is based on subjective conclusions resulting from extremely narrow findings which, in many cases, are based on statements taken out of context. It would appear that there was a certain amount of prejudgement in many of the matters addressed in the report and only that evidence which would tend to support these prejudgements was considered. As an example, certain numbered "tabs" were furnished as supporting material and referenced in the report. These consist primarily of affidavits. Yet, 41 such affidavits, far more than the

number used to support the investigatory conclusions, were not made available for either review or comment.

It is of importance to note that all allegedly improper actions were taken in full compliance with applicable laws and Commission regulations. Contrary to what may have occurred with respect to similar situations in other Federal agencies, no corrective action was required by the Commission with respect to any of the allegedly improper personnel actions.

In view of the fact that the report is based on four district director cases and eight other cases in one of our regions (out of perhaps a thousand personnel actions effected in the last several years), I should like to take this opportunity to comment both on the events which led to the investigation and on the 12 cases themselves.

#### Initiation of the Investigation

A number of questions are raised relating to the purpose and motivation  
[See GAO note p. 67.]  
of the individual whose allegations led to the Commission's investigation. It is a matter of concern that these purposes and motivations were not addressed in the Commission's report specifically.

If preferential treatment within SBA and, particularly, Region IX, had been operative for a number of years, why had he waited until fairly recently to request an investigation?

What was his role in implementing the alleged preferential actions?

Did the Commission inquire into the circumstances surrounding his original appointment to a position with SBA?

Did he actively seek promotion as a price of keeping silent?

What did the Commission's review of personnel management of Region IX in March, 1973, prior to the presentation of his allegations, indicate with respect to his performance of assigned duties and responsibilities?

Why did he not present his allegations to the Commission's review team in March, 1973?

Was there a correlation between his reassignment as a result of his substantially inferior performance over a period of years, pointed up by the March, 1973 Commission inspection, and the presentation of his allegations to the Commission?

General Comments re: District Director appointments

None of these individuals cited was appointed either in violation of CSC regulations or the SBA Merit Promotion Program. While, in each case, appointments were made as an exception to Merit Promotion procedures, the exception (appointment from a CSC register of an individual without prior Federal service) is one provided by Civil Service regulations.

It is of interest to note that these exceptions were continued under the recently revised CSC regulations on Merit Promotion.

All of the District Directors cited were appointed from Civil Service registers. In no instance did the inspection report indicate that the individual selected was not fully qualified or that he was improperly selected from a register.

Stanley Goldberg

It should be noted that this alleged improper appointment occurred in June 1969, about one and one-half years before I was appointed Administrator.

The fact that the report concludes that "Mr. Goldberg assumed that the change in Administration would mean a Republican District Director in Phoenix" does not justify a conclusion that this was the basis for his appointment. We do not dispute the allegations that Mr. Goldberg applied through Congressional channels. However, there is nothing wrong in the act of a member of Congress or any other partisan source referring an individual to a federal agency for possible employment. By the same token, we are in no position to control press releases which members of the Congress choose to release.

In view of the fact that CSC regulations do not require the maintenance of placement records for more than two years, we are not in a position to state, over 4 years later, what other candidates were considered for this position.

Other than Mr. Goldberg's statement and references to certain newspaper

articles, there is no evidence that any preferential treatment was accorded to Mr. Goldberg.

Harold Schnurer

With respect to the reassignment of Mr. Harold Schnurer, it is an established fact, under CSC regulations, that an employee may be reassigned, even though a geographical relocation is involved, when the Agency has determined that this action would serve the best interests of the Agency.

The report, in an "Epilogue," speaks to actions involving Mr. Schnurer, the former District Director, following the appointment of Mr. Goldberg. We fail to see the relevancy of these matters with respect to Mr. Goldberg's appointment. The only significant facts pointed out are that Mr. Schnurer was involved in two personnel actions, both of which were appealable to the CSC. Mr. Schnurer chose not to appeal in either of these situations. Any conclusions, therefore, based on these events, would appear to be invalid.

David K. Nakagawa

The Commission report does not speak to the issue as to why an alleged switch, presumably initiated by Mr. Shiroma in late 1968, was not consummated until 3 years later, in October 1971. It would appear that, if Mr. Shiroma's assumptions were correct; i. e., that his job was in jeopardy because of the change in Administration, the alleged switch would not have been delayed for this length of time.

The conclusion of the CSC that SBA officials were in violation in responding to Mr. Shiroma's proposal is invalid when the 3-year time lapse is considered.

Bert F. Teague

The conclusion of the report that there is no evidence that any other candidates were ever considered for the Concord District Director position is incorrect. At least two other candidates were interviewed by Mr. Heilner, the Regional Director -- Ms. Kathleen Ward, a member of an Advisory Council in Boston; and Mr. John Kinner, with the Economic Development Administration, Department of Commerce.

The statement made in the report to the effect that "By letter dated February 26, 1973, a U. S. Senator from New Hampshire informed Administrator Kleppe that Bert Teague is the person agreed upon by the two Congressmen from New Hampshire and myself for the position as Director for the SBA in Concord" is incorrectly quoted and misleading. The letter (Exhibit 55A) actually states: "Bert Teague is the person . . . should (underlining supplied) the position as Director for the SBA in Concord . . . become vacant."

There is an allegation that "acting on instructions from officials in SBA headquarters, the Boston Regional Director told Mr. Benoit (the incumbent District Director) that he had been instructed by his supervisor to remove Mr. Benoit from the District Director position. The Regional Director offered Mr. Benoit two choices: another assignment (as a Bank Relations Officer) or retirement." There is no affidavit on file (which was furnished to us)

to substantiate this statement. The only fact in evidence is that Mr. Benoit retired voluntarily. It should be noted that Mr. Benoit was 73 years of age at the time of his retirement although this fact is not stated in the report.

The statement is made that Mr. Teague's SF-171 lists two Congressmen as references. We are not aware that this is illegal or inappropriate.

Why was no affidavit taken (or if one was taken, it was not furnished) from Mr. Josaphat Benoit?

Ottley R. Tschache

Why was no affidavit taken from Mr. George Schotte, the former DD?  
(If one was taken, it was not furnished.)

The fact that Mr. Tschache listed a Congressman and a Republican State Chairman as references on his application is neither illegal or inappropriate.

The proposed reassignment of Mr. George Schotte as Special Assistant to the Regional Director in Denver was in accordance with CSC regulations which provide that an employee may be reassigned, even though a geographical relocation is involved, when the Agency has determined that this action would serve the best interests of the service. The fact that Schotte chose to remain in Helena at a lower grade, with SBA consent, does not invalidate the appropriateness of the original reassignment.

There is no question but that this downgrade, in lieu of reassignment to Denver, was voluntary on Mr. Schotte's part.

## REGION IX CASES

Daisy E. Brooks

Hired for 60 days on a disaster appointment in the L. A. District Office. There was a need for such personnel because of the disaster work in the LADO. It is our policy that all disaster appointments are temporary and, initially, do not exceed 6 months.

With respect to the allocation of a disaster space for Ms. Brooks, this was a prerogative of the Central Office based on known disaster case workload in the LADO.

Richard Burns

It is alleged that in August, 1970, Burns was contacted by a White House representative and, at that time, expressed interest in appointment as a Supervisory Loan Officer, GS-13 in the LADO. He eventually was first contacted by SBA in December, 1971 and appointed as a Loan Specialist (Comm) GS-12 in March, 1972.

If "influence" was involved, why was there a delay of 1 1/2 years in effecting the appointment, and why a GS-12 instead of a GS-13? The interval of time (1 1/2 years) would tend to disprove the connection between the two events.

The report indicates that Burns had CSC eligibility at GS-13; if "influence" was involved, why was he eventually appointed at GS-12? There was no question about Burn's qualifications because he was certified from the

Mid-level examination by the Civil Service Commission.

The report states in its "Conclusion" that "The SF Region was given an increase in ceiling to hire him (Burns) at a time when critical vacancies were left unfilled because of staffing limitations." There is no evidence offered to support this alleged increase in ceiling. Although a TWX to Singer (Exhibit 27C) dated January 19, 1972, requested such a space, there is no evidence that such a space was ever provided. Because Burns was not appointed until March 1, 1972, it is more likely that a vacancy had arisen prior to his appointment and, in this way, a space became available.

Jeri Ellis

There was nothing basically wrong in referral of Jeri Ellis by a member of the Committee to Re-elect the President.

The vacancy in the position involved was genuine due to the then pending reassignment of the present incumbent. A special effort was then being made within SBA to recruit and place women in professional positions in accordance with the provisions of the Federal Women's Program.

Throughout SBA, several women were placed in similar positions.

Contrary to the allegations in the report, there is nothing wrong in crediting experience gained in a disaster appointment toward a career service position.

C. Mack Kehoe

Although Kehoe received 2 QSI's illegally within a one-year period, corrective action was immediately taken after the matter was pointed out in a CSC review. Kehoe repaid the money to the Government.

The Administrator had the authority to make a direct award of a QSI, although he was not authorized to confer the second award of the QSI within the same year as a previous QSI.

The CSC has made no attempt to demonstrate that Kehoe did not deserve the Special Achievement Award. On the contrary, this award was merited based on his disaster operations work. Although he was not legally entitled to another QSI, there is no question about his entitlement to the Special Achievement Award.

The statement is made in the CSC report that "Kehoe did not know why he received the award (Affidavit No. 33)." This is misleading because in Affidavit No. 33, Mr. Kehoe states: "I know that Mr. Kleppe was aware of my performance in the National Disaster Loans Program in six states. I believe this was the reason Mr. Kleppe gave me the second QSI." Kehoe further states: "I was never told why I received the \$250.00 Special Achievement Award and I assumed that Mr. Kleppe personally directed it because of my National Disaster Programs effort, so I felt no need to question it."

Franklin D. Schwengel

We cannot agree that Schwengel should have been deprived of consideration for Federal employment because his father was a Congressman. Schwengel

was well-qualified for the position of Loan Specialist, GS-12. There was a need for his services in the LA disaster operations. The need for his services is established by the CSC report which states that Schwengel was retained on disaster duty for 9 months after receiving a career appointment in LADO.

There was nothing wrong in assigning Schwengel to disaster duty after he was selected for career-conditional appointment. It is SBA practice, for good reason, to detail regular employees to disaster work because they are the ones with the experience and know-how to accomplish the tasks. The fact that he was retained on disaster duty would indicate that he was doing a good job in that effort.

Again, there was and is nothing wrong in crediting experience gained in disaster operations toward a career-conditional appointment.

The fact that Schwengel was converted to a permanent-type position from<sup>o</sup> his disaster appointment is in accord with standard SBA practice to use disaster appointments as a recruitment source for regular positions. Such persons, who have demonstrated quality performance in SBA work, are prime candidates for regular appointment.

Loretta Siciliano Silverman

According to the report, Mr. Montano gave instructions to do "everything you can to put her on . . ." The report states: "This referral was interpreted, in effect, to mean that Ms. Siciliano had to be hired by any means."

This "interpretation" is not evidenced by Mr. Montano's statement. In fact, [See GAO note p. 67.] Mr. Montano's statement was misinterpreted by and his

subordinate staff. The alleged manipulations were accomplished primarily  
[See GAO note p. 67.]  
by orders of \_\_\_\_\_ and not by Mr. Montano.

Although the CSC report tries to make a point that Ms. Siciliano was 9th on a CSC referral list, the Commission does not allege that her selection from the referral list was improper. All of the "Failed to reply," "Declines" and "Non-selections" were in proper procedural order.

#### Howard Whiteaker

Although there was alleged pressure to hire Mr. Whiteaker as a GS-13, the report states that "SBA Central Office would not approve his appointment at that grade."

The report states that even though SBA received an inquiry from a White House source re: Whiteaker, there is no indication that (Central Office) interest was other than routine.

Whiteaker was certified from a Mid-Level Examination by the Civil Service Commission. There is no evidence that his selection was improper although he was fourth on the list. One candidate failed to reply, and two were interviewed and declined. The CSC report implies that one declined, "possibly having been led to believe that he would be hired for another job." There is no affidavit from the candidate, or other evidence, to support that conclusion. The CSC report states that a position in the "Law Administration Division" was moved to P&MA. We do not have a Law Administration Division in SBA.

Mr. Jenks denied having said that he hired Whiteaker to "repay a political debt."

Mary Alice Young

The facts in the CSC report are misleading:

While Ms. Young was reinstated as a Clerk-Steno, GS-4/10, on 2-22-'71, the report states she was promoted (to a Clerk-Steno) GS-5/10, on 11-14-'71, and 3 months later reassigned to Loan Closing Assistant, GS-5/10. In March 1973, her title was changed to Miscellaneous Documents Examiner.

The actual service records indicate that on 6-2-'71, her position title was changed to Clerk (DMT), GS-4/10. On 11-14-'71, she was promoted to Loan Closing Asst., GS-5/10 (not to a Clerk-Steno position). She was not reassigned to Miscellaneous Documents Examiner until 12-9-'73.

The CSC report states: "Ms. Young was selected for promotion to Miscellaneous Documents Examiner, GS-5/10 in late fall 1971." She did not go into this position until 2 years after that date.

The CSC report states that, "Advise her we would post a position at the grade 5 level in approximately 90 days (after appointment)." Actually, Ms. Young was not promoted until 9 months later. There would appear to be, therefore, a dim connection between the two actions.

Even though "alleged pressure" was to get her a GS-7 or 8 position, the fact is she wound up with a GS-4 position, and eventually, in a GS-5 job.

14. Disciplinary actions taken, or to be taken, based on CSC investigation.

With respect to whether disciplinary action has been taken or is being contemplated where allegations have been made that employees operated a political referral system, I simply do not concede that such a referral system existed or now exists in the SBA that I know and am responsible for. In connection with the charges that have been made against two SBA officials and the disciplinary action ordered against them by the Commission, any disciplinary action by me is premature. Both officials, as I understand it, are challenging the Commission's charges and will undoubtedly ask for a hearing. And, as is implied in the Agency reply to the Commission's charges in my letter dated November 5, 1974 (a copy of which was furnished to GAO representatives at our preliminary meeting), we have tried to stay out of the merits of these cases as much as possible so that if any determination is made that jurisdiction to discipline rests with the Agency -- be it because the Federal courts so rule in connection with the pending GSA cases on similar charges, or because the Commission charges the Agency with such a responsibility -- we will be in a better posture to deal objectively with the cases.

With respect to individuals identified in the Commission Report, I do not plan any disciplinary action at this time. Individuals identified in the report include the two mentioned above who have charges currently pending, and as I indicated disciplinary action against them is premature; a third who has already been given a letter of admonishment by the Commission; individuals

not in a position of authority; individuals no longer with the Agency; and me. Not being sure at this time of the justification for the proposed disciplining of the two officials formally charged by the Commission, I see little justification for taking adverse action against individuals whom the Commission, if we acknowledge their expertise in this area, has not seen fit to charge. With respect to me, I am mentioned more or less prominently in some of the cases discussed in the report; I find it hard to believe that my involvement in these cases warrants the implication that disciplinary action should seriously be considered. When you find the kind of distortion that I see in these cases and discussed above, you have to wonder about the justification for the Commission finding of "clear evidence" of impropriety and a "pattern and practice of preferential treatment," and for suggesting that wholesale disciplinary action is necessary.

I have an obligation to see that the laws and regulations are enforced in my Agency. I also believe in the old American way that a man is innocent until proven guilty. When the cases now pending proceed to that point, I'll carry out my duty as I deem it then to be.

GAO note: Name deleted.



UNITED STATES CIVIL SERVICE COMMISSION  
BUREAU OF PERSONNEL MANAGEMENT EVALUATION  
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

September 24, 1975

Mr. H. L. Krieger  
Director, Federal Personnel and  
Compensation Division  
General Accounting Office  
Washington, D. C. 20548

Dear Mr. Krieger:

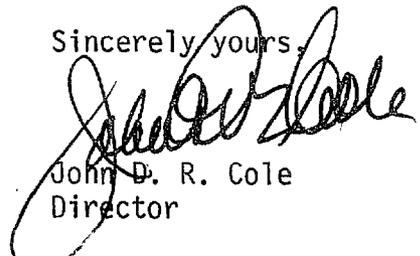
This is in further response to the letter from Mr. David P. Sorando dated August 11, 1975, with which you transmitted a draft report to the Congress on personnel management in the Small Business Administration (SBA). In accordance with the request that we review and comment on the draft report, we earlier furnished oral comments to Mr. Anthony J. Gabriel which, we understand, have been incorporated as appropriate in the draft report.

At the time we provided our comments on the draft report, we indicated that the Commission might wish to submit comments concerning the statement presented by Administrator Kleppe in response to the 14 questions put to him by GAO, since the questions posed and Mr. Kleppe's responses dealt with matters of which the Civil Service Commission has knowledge; this statement appears as Appendix IV in the draft report. The Commission's comments are attached hereto, and we respectfully request that these comments be incorporated in the report in such a way that the information may be read in conjunction with Mr. Kleppe's related statement.

Please excuse the delay in our response. Since an agency-level CSC evaluation of personnel management has been underway in SBA and is nearing completion, I wanted to be sure the Commission's comments in these matters reflected current conditions.

If any further information would be helpful, please feel free to let us know.

Sincerely yours,

  
John D. R. Cole  
Director

CSC COMMENTS ON MR. KLEPPE'S RESPONSES  
TO GAO QUESTIONS CONCERNING PERSONNEL MANAGEMENT IN SBA

The GAO submitted 14 questions concerning personnel management in SBA for response by Administrator Thomas S. Kleppe, on December 10, 1974. Mr. Kleppe's responses were submitted to GAO by letter dated January 29, 1975. Following are comments by the U. S. Civil Service Commission concerning certain questions and Mr. Kleppe's response thereto on matters in which the Commission has knowledge. These comments are offered in the interest of assuring the completeness and accuracy of information related to the questions posed by GAO.

GAO Question #1. IN DETAIL, WHAT DO YOU BELIEVE ARE THE STRONG FEATURES AND WEAK AREAS OF SBA PERSONNEL PROGRAMS AND MANAGEMENT?

Historically, SBA has witnessed serious personnel management problems and major deficiencies in personnel administration. Over the last three or four years, both their own and Civil Service Commission evaluation reports document this fact quite clearly. The needs for improvement have been comprehensive in nature, encompassing inadequate manpower planning, poor position management, serious inaccuracies in position classification, system deficiencies and both legal and regulatory violations in staffing, shortcomings in employee development and training, serious concerns with respect to equal employment opportunity, and related programmatic and operational defects. Serious and aggressive action has been required to address these concerns, and it is important to note that the current Administrator has initiated the requisite action. His own statement highlights what he considers as the major initiatives and accomplishments in this regard over the past four years. Our current agency-level evaluation of personnel management in SBA confirms the fact that significant progress has been achieved in overcoming most of the major personnel management deficiencies in SBA, and the further actions currently in progress are judged to have the requisite potential to bring about the further improvement that is needed. Overall, the Commission is gratified by the progress that has been made, as well as by the evident commitment of top management in SBA to bring about further improvement in personnel management and administration.

GAO Question #2. DO YOU HAVE ANY RECOMMENDATIONS FOR CORRECTIVE ACTION IN PROBLEMS IDENTIFIED IN QUESTION #1 ABOVE, OR ANY CONSIDERATIONS FOR THE CONGRESS?

Mr. Kleppe's responses were made last January. Since then, we and SBA officials have met several times to review matters of concern to SBA, most of which were seen not to have been unduly delayed by CSC. We believe Mr. Kleppe's reply would be less critical now.

GAO Question #3. PLEASE COMMENT ON THE EFFECTIVENESS AND USEFULNESS OF THE PERIODIC CIVIL SERVICE COMMISSION PERSONNEL MANAGEMENT EVALUATION OF SBA OFFICES.

We concur that the joint survey program between the Commission and SBA is proving both effective and useful. Although further improvements are needed to make SBA's internal evaluation efforts fully responsive to the continuing needs both of agency management and the Civil Service Commission, we have been generally pleased with the progress SBA has been making in this regard. We will continue to work with SBA's staff, as constructively as possible, to bring about the further improvements that are needed.

As for Mr. Kleppe's negative comments alleging biased, illogical and incomplete reports, while it is not clear which ones he referred to, we of course disagree. The reports themselves speak best to the objectivity, logic and completeness thereof. Where they are in error -- and we certainly do not claim infallibility -- we have always been willing to correct findings and conclusions when an agency makes a factual showing that such action is necessary on our part.

GAO Question #4. DO YOU HAVE ANY KNOWLEDGE THAT QUALIFICATION REQUIREMENTS FOR POSITIONS HAVE BEEN TAILORED TO FIT AN INDIVIDUAL'S PERSONAL QUALIFICATIONS TO ASSURE HIS BEING SELECTED FOR EMPLOYMENT OR PROMOTION?

No comment.

GAO Question #5. HAS POLITICAL PRESSURE BEEN APPLIED TO MAKE APPOINTMENTS, PROMOTIONS, REASSIGNMENTS OR ANY OTHER PERSONNEL ACTION? PLEASE RELATE THE CIRCUMSTANCES OF YOUR ACTIONS.

Mr. Kleppe outlines at length what he views as the practical considerations that have to be faced in dealing with applicants referred, either by telephone or letter, from Congressmen, Senators and other individuals in the political arena. What he apparently fails to appreciate in this admittedly quite complex problem area is the difference between a recipient acting appropriately on a referral and what are, by law, inappropriate actions on a referral.

The major limitation in law is that of 5 U. S. C. 3303 which states:

"an individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant."

This limitation is not a ban on referrals. It is rather a restriction on the examining or appointing official as to how he may consider this referral. Any candidate referred through political sources must be fully considered, but only in the same manner, and subject to the same requirements, as those which are applied to all other candidates. This can only be done by placing the applications of people received through such referrals into the regular system for receipt and consideration of all other candidates. Only in this way can equal consideration be given to those other citizens (usually including many highly qualified people) who express interest in Government employment through the usual channel of application in civil service examinations or directly to an agency in whose program they are interested, without reliance on referral from a third party.

Thus, what is prohibited is not referrals, but the giving of special preferential or exclusive consideration to referrals from only one source. A merit appointment can be made only after the requirements of public notice, broad opportunity to apply, and common, realistic standards have been met. These must be met in fact and not just by lip service. There needs to be an active search for candidates from relevant sources; the final competition must occur among candidates recruited in such a manner; and the final selection must be made from among only the most highly qualified and solely on the basis of merit and fitness, as required by law.

In addition, pursuant to the Civil Service Act of 1883, Federal officials are bound by a Presidential order, initially promulgated by President Arthur in 1883, which without significant change in meaning is currently found in Rule 4.2 of Title 5 of the Code of Federal Regulations. The current Order explicitly prohibits officials in connection with competitive service employment, from making "any inquiry concerning \* \* \* political affiliation." The Rule then states that all disclosures concerning such matters shall be ignored, and that no discrimination shall be exercised, threatened, or promised because of political affiliation.

Another aspect of Mr. Kleppe's response to this question deals with the alleged unfairness of the Commission's investigative report. With respect to Mr. Kleppe's charge that the Civil Service Commission's investigative report on SBA is unfair, we are prepared to hear whatever he has to say in this regard, as well as to receive whatever

factual representations he is prepared to make. The report of investigation was forwarded to him on August 19, 1974, for his review, appropriate action, and whatever comment he deemed appropriate. His initial response on this matter is his letter of October 7, 1974, to the then Executive Director of the Commission, Mr. Bernard Rosen, in which he reported rather extensively on the corrective actions that he had initiated in response to the CSC report. We were, of course, gratified by what we perceived as prompt and effective action on his part to correct the deficiencies in personnel management discussed in the CSC report.

In that same letter Mr. Kleppe indicated that he was "...not necessarily agreeing with the Commission's findings on specific personnel actions discussed in the report..." He related this to the fact that some of these matters involved his office, and the fact that the Commission's investigators did not deem it appropriate to interview him. In his reply of November 14, 1974, Mr. Rosen communicated the following to Mr. Kleppe:

"In response to your observation that the Commission's investigators did not interview you during the course of the investigation, we did not call upon you to submit testimony because it did not appear necessary for the resolution of the issues being investigated. Of course we knew that you would be able to present your views in replying to our report and, as I stated earlier in this letter, we would be most interested in receiving them at this time along with whatever pertinent facts you believe would be informative to us."

Since that date the Commission has received nothing from SBA that identifies and factually reflects allegedly erroneous findings or conclusions in CSC's investigative report. If a factual showing can be made that the report is in error in any significant respect, correction will be made. Otherwise, the report speaks for itself.

GAO Question #6. TO YOUR KNOWLEDGE, DID ANYONE IN SBA HAVE ACCESS TO OR USE A SPECIAL PERSONNEL MANUAL, KNOWN AS THE MALEK MANUAL, WHICH DESCRIBED WAYS OF CIRCUMVENTING THE MERIT SYSTEM?

The Commission found no evidence during its investigation to suggest the existence of such a manual in SBA.

GAO Question #7. HAS YOUR OFFICE MAINTAINED A LIST OF POLITICAL ELIGIBLES FOR FILLING SBA POSITIONS?

No comment

GAO Question #8. HAVE CANDIDATES FOR KEY POSITIONS BEEN IDENTIFIED AS TO POLITICAL PARTY; HAS POLITICAL PARTY BEEN A CONSIDERATION FOR APPOINTMENT OR PROMOTION?

A number of cases in the CSC investigative report of SBA dealt with political sponsorship and its impact on selections for appointment and promotion. In addition, the CSC report described the referral, clearance and selection process that was indicated to have prevailed in SBA for some time, which permitted political considerations to influence the selection process for filling positions in the competitive civil service. To date, the Commission has received no factual representation from SBA that would contradict its findings and conclusions in this matter.

As a result of its investigative findings and conclusions, the Commission required certain corrective actions on the part of SBA to prevent the recurrence and continuation of the kinds of merit system violations found. Specifically, we required the agency to:

1. Develop and implement a positive plan for filling SBA District Director position vacancies on a merit staffing basis. The plan should be designed to assure the identification and selection of the best qualified candidates available, through in-service placement and/or outside recruitment, through open competitive procedures that assure the bona fide consideration of qualified candidates whose qualifications are compared on an impartial and objective basis. The plan should also assure that all personnel actions affecting District Director positions are free from political influence, discrimination or preferential treatment of any kind.
2. Review, and revise as necessary, internal SBA policies with respect to recruiting and staffing so that: (a) personnel laws, merit principles and related executive orders, rules, regulations and policies established by the Commission are clearly set forth; (b) the responsibility for faithfully executing these requirements is specifically assigned to and clearly understood by the management officials, supervisors and personnel staffs concerned; (c) the necessary degree of

management oversight and review is exercised to assure that appropriate officials are held accountable for complying with legal and regulatory requirements; and (d) the appropriate corrective and/or disciplinary action is taken promptly whenever violations occur.

3. Review, and revise as necessary, current methods and procedures for receiving, considering, handling and disposing of applications for employment, to assure full compliance with personnel laws, merit principles and other essential requirements; in particular, appropriate safeguards should be provided to assure compliance with the provisions of 5 U. S. Code 3303, Executive Order 11222, and Civil Service Rules 4.2 and 7.1.

In Mr. Kleppe's response dated October 7, 1974, he outlined the actions SBA had taken or was planning to take with respect to each of the three corrective actions required by the Commission. His response reveals that, although some actions that SBA had taken prior to their receipt of CSC's investigative report were deemed to be sufficient to satisfy Commission requirements, a number of additional personnel management improvements and corrective actions were taken in response to and as a direct result of the Commission's investigative report.

Overall, the Commission was satisfied with the corrective actions indicated by SBA, and our current agency level evaluation of personnel management in SBA has undertaken a follow-up to assess the effectiveness of these measures.

GAO Question #9. ARE DISTRICT DIRECTORS NORMALLY PROVIDED FROM WITHIN SBA OR FROM EXTERNAL SOURCES? IN THE CASE OF THOSE HIRED FROM OUTSIDE SBA WHY COULD THE POSITION NOT BE FILLED FROM WITHIN?

and

GAO Question#10. HOW ARE DISTRICT DIRECTORS RECRUITED AND SELECTED? IS THERE A WRITTEN PLAN FOR FILLING THE POSITIONS BASED ON MERIT STAFFING?

Mr. Kleppe's responses to these two questions reflect the improvement measures instituted by SBA both on its own initiative and in response to the corrective actions required in response to CSC's investigative report.

GAO Question #11. WHY DO DISTRICT OFFICES, IN RELATION TO THE REGIONAL OFFICES, HAVE LITTLE AUTHORITY OR CONTROL OVER HIRING OR OTHER PERSONNEL ACTIONS?

No comment.

GAO Question #12. HAVE THE FOLLOWING BEEN USED FOR EITHER REWARD OR PUNISHMENT BY ANY MANAGER IN SBA?

No comment.

GAO Question #13. COMMISSION REPORT ON ALLEGED POLITICAL INFLUENCE AT SBA.

Our comments with respect to the second part of Mr. Kleppe's statement in response to Question 5, above, deals with SBA's disagreement with the findings and conclusions in CSC's investigative report. No factual representations have been received from SBA to refute these findings and conclusions; as far as we are concerned, the report stands on its own in the absence of any factual presentation reflecting error. Further, no prejudgment entered into the conclusions reached by the Commission. The complete evidentiary file has been shared with SBA officials, and there is no basis whatsoever for the assertion that the Commission's conclusions represent prejudgments supported by selective use of evidence.

We cannot agree with the statement that "all allegedly improper actions were taken in full compliance with applicable laws and Commission regulations." The CSC investigative report documents cases where this is not so; while certain technical legal and regulatory details may have appeared, on the surface, to have been complied with, it is clear from an examination of the cases reported that the true spirit and intent of personnel laws and merit principles were violated. The fact that no case corrective action was required by the Commission was simply because, at this late date, it was not feasible to formulate corrective actions that could meaningfully and realistically correct the violations that had occurred.

GAO Question #14. DISCIPLINARY ACTIONS TAKEN, OR TO BE TAKEN, BASED ON CSC INVESTIGATION.

No comment.



U.S. GOVERNMENT  
SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

October 9, 1975

Mr. Victor L. Lowe  
Director, General Government Division  
General Accounting Office  
Washington, D. C. 20348

Dear Mr. Lowe:

We appreciated the opportunity to comment on your draft report concerning the personnel management in the Small Business Administration.

We would first like to say that the report which represents a good deal of effort by your staff is well done and is basically a fair presentation.

However, our only real concern with the report is Chapter 2, since virtually all of this chapter is devoted to an analysis of the "Poor" responses resulting from the attitude survey of SBA employees. We believe since the survey showed that employees rated SBA's personnel management practices good or fair from a range of 71% to 85.5% that to counterbalance this negative emphasis, similar analysis and emphasis should be made of the favorable comments.

See GAO note (p. 83).

See GAO note (p. 83).

Now with regard to the Civil Service Commission's comments on Appendix IV<sup>1/</sup> of your report which was forwarded to us by letter from H. L. Krieger, Director, Federal Personnel and Compensation Division, I want to make the following comments.

In their comments on my answers to questions 5 and 13 of the GAO questionnaire, the Commission makes a point of never having received anything from SBA that identifies and factually reflects allegedly erroneous findings or conclusions in the Commission's investigative report and that the report speaks for itself.

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1/ GAO NOTE: Now appendix VI.

SBA has never replied directly to the Commission on the specific cases charging improper actions by SBA personnel. SBA avoided involving itself in the merits of the specific cases for two reasons. First, there was a serious question of Commission jurisdiction to proceed in the manner it did and to direct specific disciplinary action against another agency's employees. This issue was raised in court by employees of other agencies and it has not been finally resolved judicially to the best of our knowledge.

Second, the two employees threatened with serious disciplinary sanctions, discharge in one case, suspension in the other, asked for formal administrative hearings in which to challenge the Commission's alleged findings and conclusions. An attempt by SBA to involve itself in the merits of the cases might have been prejudicial to the rights of the individuals involved. The abrupt manner in which the Commission proceeded at that time and the publicity which attended the filing of its report did not create an atmosphere which we considered favorable to anything but formal arm's-length dealing. We are pleased to note in Mr. John D. R. Cole's letter and report to you a somewhat more receptive stance.

In any event, as you well know, I cooperated completely in answering your questionnaire. And in view of the GAO's statutory obligation to conduct a full scale audit of SBA, including personnel administration, I furnished a reply to the specific cases mentioned in the Commission report. However, at that time, I thought it necessary to request confidentiality for the names of the individuals identified in item #13. You adhered to my request, and you did not include our analysis of the specific cases in your draft, for which I want to express my gratitude. 1/ Therefore, the Commission is not aware of our having evaluated their specific charges.

Subsequent events have mooted the need for further confidentiality. The Subcommittee on Small Business of the Senate Banking, Housing and Urban Affairs Committee included the full questionnaire and my answers in the published record of hearings it conducted on Small Business Legislation on April 21 and 22, 1975. The Subcommittee

1/ GAO NOTE: The full text of the Administrator's response is included as appendix V except for the name of the individual whose allegations led to the Commission investigation of SBA.

on Manpower and Civil Service of the House Committee on Post Office and Civil Service published in Committee Print No. 94-4 dated July 1975, the documents relating to the Commission's investigation report on SBA.

Accordingly, I want your record to show that I have not been reluctant to get into the specific allegations contained in the Commission report. Until recent developments, I did not consider this appropriate.

I am writing separately to the Executive Director of the Commission and sending him the detailed answers I furnished to item 13 of your questionnaire with whatever supplemental information may be desirable. A copy of this letter is enclosed. Hopefully, this may lead to a further exchange between SBA and the Commission on this troublesome matter which the Commission says, in commenting on item 5 of the questionnaire, is an "admittedly quite complex problem area."

It is not only a complex area but a confusing area because of a lack of guidelines prior to the time the Commission filed its charges. We said as much in our reply of November 5, 1974, to Administrative Law Judge John J. McCarthy who was assigned to the two cases involving SBA officials, a copy of which was furnished you. You may recall that in the section where we questioned the fairness of the Commission it was in part in this context. But, we disavowed any intent to question the integrity of the Commission.

To further complete the record, I wish to also reply to the Commission's comments with respect to my answers to questions 1, 2, 3 and 8 of the GAO questionnaire:

Question 1: The Commission's comments are unduly defensive. The question asks for my views on the current status on SBA personnel programs and management and I replied accordingly. The Commission comments with respect to past practices and deficiencies are gratuitous except insofar as they point up the significant and substantial progress and improvements made in personnel management during my tenure as Administrator. The comment that requisite action has been "initiated" is an understatement. The agency-level evaluation of personnel management in SBA, referred to in the comments, has since

been completed by the Commission and I have been briefed on their findings. The evaluation indicates that 90% of the "problems" previously identified have been corrected and that SBA ". . . is in the front rank of agencies in the Federal service . . ." in terms of its personnel management program.

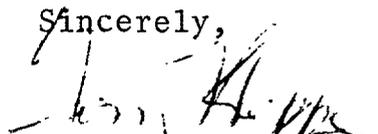
Question 2: While several of the problems originally posed still exist, I am gratified to state that there are indications of improved relationships between CSC and SBA.

Question 3: Apparently, the Commission has misconstrued the tenor of my answer to this question which states that "while the CSC field evaluation teams have been helpful, and as their reports indicate, have shown substantial improvement in SBA personnel programs, other offices of CSC seem bent solely on a biased, illogical, incomplete . . . approach (underlining supplied)." I had reference here to actions taken by certain CSC regional offices and certain elements in the CSC Central Office.

Question 8: The implication of the Commission's comments that there existed in SBA an improper referral, clearance and selection process is untrue. CSC did not uncover such a system because there was none. Applications received from outside sources are, and have been, treated in a completely correct manner, fully consistent with applicable laws and regulations. It is true that certain "corrective" actions were required by the Commission and, as indicated, these requirements were complied with. We did not contest the need for taking these actions because all of them fall into the category of general program improvements. As such, they are applicable to every Federal agency.

I appreciate very much the opportunity you have given us to comment on the Commission's comments and your draft report. If you need any additional information or comments, please advise.

Sincerely,



Thomas S. Kleppe  
Administrator

Enclosure



SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

October 9, 1975

Mr. Raymond Jacobson  
Executive Director  
U.S. Civil Service Commission  
Washington, D.C. 20415

Dear Mr. Jacobson:

As you know, the General Accounting Office has recently completed a draft report entitled "Personnel Management in the Small Business Administration" and submitted it to the Commission for comment. GAO gave us an opportunity to comment on the Commission's reply of September 24, 1975 by Mr. John D.R. Cole, Director of the Commission's Bureau of Personnel Management Evaluation.

Needless to say, I am extremely gratified by the comment that the Commission is pleased with the significant progress achieved by SBA in personnel management and administration. And I fully understand why the Commission should be disturbed by some of the general observations I made concerning the Commission's investigation report on SBA since "the Commission has received nothing from SBA that identifies and factually reflects allegedly erroneous findings or conclusions...."

I am enclosing a copy of our comments on the Commission's comments on the GAO draft report, which, hopefully, will make clear SBA's reasons for previously not replying directly to the Commission and explain why the draft report did not contain my answers to GAO on the specific cases mentioned in the investigation report. I am also enclosing a copy of my full answer to item 13 of the GAO questionnaire.

I would hope that as I leave SBA the matter of the charges against two SBA officials in whom I have utmost confidence would not be left in a way to suggest that I have nothing to say and that they are left to their own devices to suffer further financial hardship and damage to their reputations. I think my answer to item 13 does this in part. But I would like to add here to what is furnished by the enclosures.

This agency has not had under my administration a special referral unit of any kind. All personnel actions have been processed through regularly established personnel channels. My former assistant, one of the persons

charged, was never an appointing officer, though he has been charged as one, nor a recommending officer. He was on my personal staff and certainly was involved in all aspects of agency activities affecting me, including personnel. The Commission has acknowledged that it found no evidence to suggest the existence of a so-called Malek Manual in SBA and my answer to GAO indicates my lack of knowledge of it until it was reported in the press. SBA cooperated with the Commission's investigation and I am told that Mr. Cole, testifying at the Henderson Subcommittee Hearing on April 10, 1975, noted that there was no resistance of the investigation by SBA.

In the Commission's comments on item 5 of the GAO questionnaire, there is a reference to Mr. Rosen's statement that I was not interviewed during the course of the investigation because my testimony did not appear necessary to the resolution of the issues being investigated. I simply cannot understand this. My immediate assistant is charged; I am mentioned personally in some of the specific cases, e.g., Kehoe, Schwengel, Teague. I know that some of my own associates and others who were relevant to some of these cases were also not interviewed.

The investigation report quoted from a letter from a U.S. Senator to the effect that Bert Teague is "the person agreed upon by the two Congressmen and myself for...the position of Director for the Small Business Administration in Concord." That letter in fact said that Mr. Teague was being submitted "for consideration should the position as Director... become vacant."

One of the Commission's two charges against our San Francisco Regional Director seems to me to be based largely on an unjustified interpretation of the statement "...do everything you can to put her on." This to me is a perfectly reasonable statement by a nonexpert in personnel matters to the experts. I cannot believe it reasonable to ascribe to this an intent that illegal action be taken in this situation. I think the more reasonable interpretation would be that every possible legitimate alternative be explored.

I think that our answers to item 13 have indicated that this matter is not as clearly one-sided as the Commission report makes it out to be. I believe that there is substantial basis for what I said in one of my answers to GAO, that although some of the Commission's facts may be beyond dispute, conclusions based upon those facts are far from clearly justified.

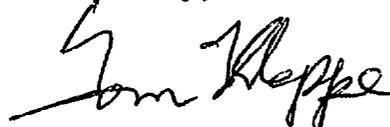
It would be gratifying to me, as I leave SBA, to see a dialogue opened between SBA and Commission officials to examine further into the justification for the charges against the two charged officials, to take additional evidence if necessary, all for the purpose of preventing further damage to the reputation and financial condition of two persons

whose services to SBA under my administration I have greatly valued. This is in keeping with the willingness expressed by Mr. Cole in his comments to GAO to make corrections in the report if there is error in any significant respect. My successor as Administrator should not have to be distracted from his regular responsibilities by the additional burden of agency involvement in a matter which tends to demean the reputation of what I consider a fine agency doing a valuable public service.

I believe that it would not be unfitting for me to recommend - because I deeply feel the justice of it - that the Commission at this time suspend the charges still pending against two SBA officials, reevaluate de novo all sides of the evidence it now has in the light of our answers to item 13 of the GAO questionnaire, and, if necessary, reopen the investigation to interview the additional witnesses suggested in some of those answers, and such other additional witnesses as may be suggested by our staff and the Commission deems relevant to its inquiry.

I would sincerely appreciate your personal consideration of this request and want to assure you of my willingness to cooperate should you decide to comply with it after I leave SBA.

Sincerely,



Thomas S. Kleppe  
Administrator

Attachments

GAO NOTE: Information deleted refers to editorial suggestions regarding the draft report.



UNITED STATES CIVIL SERVICE COMMISSION  
BUREAU OF PERSONNEL MANAGEMENT EVALUATION  
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

November 6, 1975

Mr. Victor Lowe  
Director, General Government Division  
General Accounting Office  
Washington, D. C. 20348

Dear Mr. Lowe:

On October 9, 1975, Mr. Thomas S. Kleppe, then Administrator of Small Business Administration, wrote to you concerning GAO's draft report on personnel management in SBA; he was kind enough to provide the Commission with a copy of that letter. Several aspects of that letter dealt with relationships between the Commission and SBA. The Commission believes certain additional information needs to be provided to assure completeness and accuracy on certain issues.

Our first concern relates to Mr. Kleppe's response to questions 5 and 13 of the GAO questionnaire and his further statement on the Commission's comments thereon.

When SBA received the Commission's 1974 investigative report on "Alleged Political Influence in Personnel Actions at the Small Business Administration", SBA was asked for comments on and reactions to the report. The agency's response took exception to the findings and conclusions of wrongdoing generally, but offered no specifics to rebut the Commission's detailed findings and conclusions. A subsequent letter from the Commission's Executive Director again asked SBA for any evidence or factual information that tended to refute the Commission's findings and conclusions, but no response was received. It is only now, in responding to questions from GAO that have a bearing on this matter, that any details are offered in rebuttal to certain aspects of a major year-old CSC investigative report on SBA. Although we appreciate having been furnished a copy of this material, neither its form nor its substance constitutes an adequate response, if it is intended to be a dispositive rebuttal of CSC's investigative findings and conclusions. We shall, of course, so advise SBA in due course.

Although the Commission's investigative report of SBA, including its detailed findings and supporting documentation, speaks for itself and, in our judgment, serves as the most effective rejoinder to the argument in the most recent letter to GAO, highlighting certain points may help to put this entire matter in the proper perspective. It should be noted at the outset that the individual cases cited in the report were introduced and discussed essentially for illustrative purposes, and to demonstrate the need for the systemic corrections which the Commission required SBA to initiate. SBA's most recent comments on our specific case findings, however, betray a serious misunderstanding of some fundamental imperatives in Federal personnel management. Specifically:

1. Applicability of Merit Promotion Program Requirements. The Merit Promotion Program at SBA, as well as at other agencies, is designed principally as a means for identifying incumbent employees for promotion. Such programs establish procedures which ensure that proper consideration for most non-entry level positions in the competitive service will be given to those already employed by the agency. Where there are exceptions to the Merit Promotion Program, as is the case with some of the District Director appointments at SBA in recent years, the agency is free initially to recruit outside the agency. In neither case, however, is the agency free to disregard the requirement to consider only merit factors and to seek the best qualified individual for the job. Merit principles do not allow a selection to be made merely because the applicant is nominally qualified for the position concerned. In any event, the discussion of the District Director positions contained in our report on SBA personnel practices was to the effect that the appointments we identified were not based strictly on merit factors. It begs the question merely to assert, as SBA has, that the requirements of the Merit Promotion Program were not applicable to such appointments. Again, that Merit Promotion procedures need not be followed does not in any way vitiate the requirements that the agency select its District Directors solely on the basis of merit and fitness.

2. District Director Recruitment and Selection. CSC investigators reported that they found "...no regular procedure in SBA to assure that merit principles are adhered to ..." in filling these positions. From the information provided orally by SBA personnel people and management officials they interviewed, and from the limited documentation produced by SBA to reflect the recruiting and selection process they used for these key positions, our staff concluded that over the years "...SBA has permitted a personnel management vacuum to exist in which political interests are allowed to influence appointments in a style that approximates a patronage

system." The fact that SBA now claims it has not had "...a special referral unit of any kind" is irrelevant. The Commission did not assert that SBA had such a unit; rather, we criticized the unsystematic recruiting and selection methods which could have permitted non-merit influences to play on District Director appointments. While SBA may put different interpretations on certain events that occurred in particular cases discussed in the CSC report, three salient facts remain undisputed: (1) SBA's recruiting and selection practices were found wanting with respect to filling District Director positions; (2) CSC directed SBA to develop and implement a positive plan for filling these positions on a true merit staffing basis; and (3) SBA developed and implemented a new "Recruitment Plan for District Director Vacancies" in response to the Commission's report.

3. Eligibility on CSC Registers. Throughout its discussion of the various cases SBA makes much of the fact that the various appointees were rated eligible by the Civil Service Commission and were appointed from CSC administered registers. These individuals were presented to the Commission as "name requests". Obviously, agencies are encouraged to perform their own recruitment, and through open competition seek on their own to obtain the best qualified persons for whatever vacancies they may have. Candidates identified in this manner may properly be "name requested" and, if certified, their subsequent appointments could be wholly consistent with merit principles. Again, however, where the determination that the applicant should be name requested is based on non-merit factors, the selection is tainted ab initio and is in no way purged of its impropriety because the particular individual is thereafter rated as eligible by the Civil Service Commission. The system operates on the assumption that those who are "name requested" have been selected for such treatment solely on the basis of merit considerations. SBA's suggestion to the contrary negates the core meaning of the merit system. Moreover, it is the responsibility of the agency in the first instance to see to it that all such actions are properly based.

4. Authority to Reassign. It goes without saying that an agency's managers are in a superior position to know how best to deploy personnel to optimize achievement of the agency's goals. And, in this connection, it is also a truism that applicable law allows an agency geographically to reassign an employee when it has been determined that the reassignment would serve the best interests of the service. But, merely invoking this prerogative in its literal sense does not answer the question whether in a particular case the reassignment was for the good of the service and not for some other non-merit reason. For it is also incumbent upon the

responsible agency officials to determine whether that which in form comports with proper practice is so in actual effect. Where reassignments are involved, the courts have made it clear that agencies must be especially vigilant in this regard. In any event, the factual matters set forth in our report make it plain that the reassignments involved here were not fully predicated on merit considerations. SBA's response is wide of the mark, since it merely recites that the agency has authority geographically to reassign its personnel and fails meaningfully to address the factual aspects of the various cases.

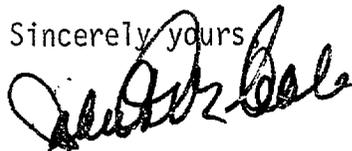
5. Use of Temporary Appointments. We do not dispute the fact that experience gained during a temporary appointment -- including a disaster appointment -- may be credited as qualifying experience for a subsequent career-conditional appointment. At the same time, however, it is manifestly improper to use a temporary appointment solely for the purpose of qualifying a favored candidate for regular employment with the agency. Here, again, SBA merely states the obvious -- namely, that experience gained while in a temporary employment status is qualifying -- and fails to recognize that the temporary appointing authority has a limited purpose which does not include use as a "stepping stone" to permanent employment. Where such a result is contrived, merit principles are clearly undermined.

Finally, while it is true that the Commission's recently completed agency-level evaluation of personnel management in SBA indicates that progress has been made in overcoming some of the persistent personnel problems in the agency, we did not conclude "...that 90% of the 'problems' previously identified have been corrected..." nor that SBA "...is in the front rank of agencies in the Federal service ... in terms of its personnel management program." What we did indicate to SBA executives in our closing conference was that some 80 to 90 percent of the longstanding and persistent personnel problems in SBA were being dealt with more effectively than before, that definite progress was being made, but that substantial further actions would be necessary to resolve their longstanding difficulties. For us to have implied that they have solved most of their serious problems, however, and are thus among the front rank in terms of results achieved to date, would certainly have been misleading. Nonetheless, we are definitely gratified at the steps that SBA is now taking to deal with its personnel management problems, and there is no question that the plans and activities underway are salutary and commendable.

I hope this information is helpful to you. For our part, we believe that the information set forth above is absolutely necessary to a full and accurate understanding of issues addressed by the GAO report. Accordingly,

we would hope that this letter might be included as part of the report, in an appropriate appendix, where it will be readily available in proper context for those to whom the report is addressed. Please let me know if any further information or clarification would be helpful.

Sincerely yours

A handwritten signature in black ink, appearing to read "John D. R. Cole". The signature is written in a cursive style with a large, sweeping initial "J".

John D. R. Cole  
Director

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