Interim Report On The Use Of Presidential Executive Interchange Personnel With Oil Industry Backgrounds By The Federal Energy Office

B-181013

UNITED STATES
GENERAL ACCOUNTING OFFICE

MAY 3, 1974

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

B-181013

The Honorable Charles A. Vanik
House of Representatives

Dear Mr. Vanik:

In your letter of April 4, 1974, and in subsequent discussions with your office, you asked that we examine the background and circumstances of employment of certain Presidential Executive Interchange Program personnel working at the Federal Energy Office (FEO) and give consideration to any potential conflict of interest problems. This interim response to your request contains information on one of the interchange personnel--Mr. Robert C. Bowen.

In developing this response we interviewed Mr. Bowen, his supervisor, and various officials of FEO and the Department of Treasury; reviewed Mr. Bowen's official personnel folder, his correspondence and work related files; and contacted an official of the Presidential Executive Interchange Program.

The President's Executive Interchange Program provides for the interchange of managerial skills between the Federal Government and the private sector. Executives in the private sector are selected for year-long assignments in the Government; similarly, Government executives are selected for year-long assignments in the private sector.

The President's Commission on Personnel Interchange selects candidates meeting program requirements and refers them to the most appropriate host organization for additional interviews. Under the interchange program, private sector employees who are assigned to the Government are subject to the same conflict of interest laws and regulations that are applicable to Federal employees.

Mr. Bowen is on a year's leave of absence from the Phillips Petroleum Corporation and is working as a petroleum engineer (petroleum specialist) in FEO's Office of Policy Analysis. Mr. Bowen initially joined Government service on June 18, 1973, as a petroleum engineer (petroleum specialist) with the Office of the Energy Advisor, Office of the Deputy Secretary, Office of the Secretary, Department of the Treasury. On September 2, 1973, Mr. Bowen was transferred from the Office of Energy Advisor to the Office of Analysis and Special Studies of Natural Resources and Energy, Department of the Treasury. Mr. Bowen has been working for

1. 766
2. 38

FEO since his office's functions were transferred on December 4, 1973. Mr. Bowen is still considered a Treasury Department employee, and the Department still maintains his official personnel folder.

In your request, you asked eight questions regarding the interchange employees. Your questions and our responses as they regard Mr. Bowen are set forth below.

WHAT IS THE ACTUAL JOB DESCRIPTION FOR WHICH THE INDIVIDUAL HAS BEEN HIRED?

Before Mr. Bowen's employment with the Treasury Department, Mr. William A. Johnson, Special Assistant to the Deputy Secretary, wrote a memorandum to Mr. William E. Simon, Deputy Secretary of the Treasury, which outlined the duties Mr. Bowen would perform during his year of service with the Government under the interchange program. In the memorandum, Mr. Johnson said that Mr. Bowen would primarily collect and analyze factual data and provide technical calculations and studies in which subjective judgment and advice were not required. Mr. Johnson also set forth typical studies which Mr. Bowen would work on including (1) developing data on foreign oil operations, (2) assisting in preparing an analytical base for providing surveillance of the Government's oil import control program, (3) making cost studies of petroleum storage, refining, and pipelines, and (4) preparing background papers on the U.S. petroleum industry for briefing other staff members. The memorandum also set forth actions that would be taken to insure that Mr. Bowen would not get involved in a conflict of interest situation. A copy of the memorandum is included as Appendix I.

The official position description for Mr. Bowen, dated August 31, 1973, shows Mr. Bowen as a petroleum engineer (petroleum specialist) in the Office of Analysis and Special Studies of Natural Resources and Energy, Office of the Deputy Secretary, Office of the Secretary, Department of the Treasury. Mr. Bowen's position description includes a functional statement of the Office of Analysis and Special Studies of Natural Resources and Energy which states that the Office advises the Deputy Secretary on the international economic and financial impact of domestic and international policies on resources and energy. It states that:

> "* * * the office will also advise the Deputy Secretary on related tax policies including depletion allowances, accelerated amortization, investment credits, and production incentives, as well as * * * financial and investment policies, * * * price controls, loans and guarantees, * * * as they affect U.S. natural resource and energy needs."

Mr. Bowen's specific duties and responsibilities as outlined in the job description generally parallel those set forth in Mr. Johnson's memorandum referred to earlier. A copy of Mr. Bowen's position description is included as Appendix II.

FEO has not developed a position description of Mr. Bowen's duties and responsibilities at FEO because he is still considered an employee of the Treasury Department.

WHAT ARE AND HAVE BEEN THE NATURE OF THE EMPLOYEE'S ACTUAL ACTIVITIES DURING HIS TERM OF EMPLOYMENT IN HIS FEO POSITION?

Mr. William A. Johnson has been Mr. Bowen's immediate supervisor since Mr. Bowen joined the Government. Mr. Johnson was the Energy Adviser to the Deputy Secretary of the Treasury, was detailed to FEO at the time of its creation, and was made Assistant Administrator for Policy Analysis, reporting to the Administrator and Deputy Administrator. According to the functional statement of the Office of Policy Analysis, Mr. Johnson is responsible for reviewing program operations and carrying out a broad program and policy evaluation leading to the development and adoption of FEO policy and programs. He is also responsible for reviewing proposed policies developed within FEO and for reviewing and making recommendations on regulations and legislation in the energy field. According to the functional statement, he participates in economic planning, analyzes and reviews FEO programs and policies which deal with economic and financial issues concerning all forms of energy. He also works with Treasury Department tax personnel to develop plans for taxes and other regulations which have an impact on energy matters, including the pricing of energy and rate regulations. A copy of the functional statement for FEO's Office of Policy Analysis is included as Appendix III.

In regard to Mr. Bowen's actual activities, during the week of April 15, 1974, Mr. Bowen was asked to provide the Office of Policy Analysis with a list of duties he had been performing at FEO. In a memorandum to the FEO Administrator dated April 17, 1974, Mr. Johnson outlined the duties Mr. Bowen had performed since his assignment to FEO as follows.

"1. Has prepared background studies on crude oil, propane, natural gas, and various refined products.

"2. Has evaluated and projected the effects of existing and proposed regulations on various sectors of the oil and gas industry.

"3. Has made a study of the capital investment patterns of the oil industry and various individual companies.

"4. Has prepared estimates of imports and exports of crude oil and refined products.

"5. Has held informal seminars for staff members on technical aspects of the oil industry.

"6. Is involved in a major study of European refinery capability and sulphur levels of distillate and residual fuel oils.

"7. Has analyzed foreign financial, physical, and manpower capabilities that may limit or impede foreign oil producing countries from reaching probable or announced goals.

"8. Is working on a history of price controls.

"9. Provides general technical advice about marketing of petroleum products."

Messrs. Johnson and Bowen informed us that Mr. Bowen had been involved in a variety of duties at FEO, such as those outlined in the April 17, 1974, memorandum to Mr. Simon. According to Mr. Johnson, Mr. Bowen's area of expertise is marketing and refining operations, and he has provided particular knowledge of how things are done in the oil industry. Mr. Johnson said that Mr. Bowen's knowledge of industry operations had enabled him to make an invaluable input into comments made by the Office of Policy Analysis on the impact of proposed rule changes on the industry.

From the foregoing, Mr. Bowen's duties at FEO appear changed in several significant respects from those outlined in his original position description as carefully defined with the assistance of the Treasury Department's General Counsel. The most important change is that he has been called upon to evaluate and project the effects of existing and proposed regulations on various sectors of the oil and gas industry.

DID THE EMPLOYEE PRODUCE ANY MATERIAL RELATIVE TO HIS ORIGINAL JOB DESCRIPTION AND WHAT IS THE NATURE OF THESE PAPERS?

Mr. Bowen said he did not participate in producing his original job description. Our review of Mr. Bowen's personnel file at the Department of Treasury showed no indication that Mr. Bowen had participated in any way in drafting his job description or produced any material relative to it.

HOW WAS THE ORIGINAL JOB DESCRIPTION DESIGNED, AND WAS IT WITH THE AID OF LEGAL COUNSEL'S OFFICE; AND IF SO, WHY THAT WAS NECESSARY?

According to Mr. Johnson,--and supported by our review of Mr. Bowen's personnel file--the original job description was prepared by Mr. Johnson with the advice and participation of Treasury's General Counsel. Documents in Mr. Bowen's personnel file indicate that Treasury personnel and legal officials were sensitive to a potential conflict of interest involving Mr. Bowen before his employment. A memorandum dated May 18, 1973, to the Assistant Secretary for Administration from the Acting Director of Personnel indicated that reasonable caution should be exercised in assigning Mr. Bowen duties and noted that the potential conflict of interest should be reviewed in detail.

A statement dated May 18, 1973, signed by Mr. Johnson, noted that Mr. Bowen's expertise would aid the Government in developing approaches to the energy problem. The statement pointed out that Mr. Bowen would be on leave of absence from his company, would retain stock interest in his company, and poses a potential conflict of interest problem. The statement indicated that, to the extent possible, Mr. Bowen would be used in studies where such conflicts would not develop. The memorandum noted that Treasury employees with no industry affiliation would have final responsibility for decisions and that Mr. Bowen would work as a professional rather than as a policymaker.

A memorandum dated June 13, 1973, from Treasury's General Counsel to Deputy Secretary of the Treasury William Simon discussed conflict of interest considerations in the employment of Mr. Bowen. The memorandum noted that Mr. Bowen had a financial interest in Phillips by virtue of his participation in the Company's thrift and retirement plans and more importantly, by virtue of his continuing and prospective employment with the Company. The memorandum also notes it is necessary to recognize that Phillips has a financial interest in the activities of the Office of the Energy Adviser. The memorandum was accompanied by the previously mentioned memorandum from Mr. Johnson to Mr. Simon concerning Mr. Bowen's duties. In evaluating the accompanying document, General Counsel said the memorandum indicated that Mr. Bowen would work only on technical studies relating to the oil industry in general, not on those relating to individual companies, and that Mr. Bowen would be excluded from considering policy and developing programs which would specifically affect Phillips' financial interests or those of other companies in competition with Phillips.

The memorandum also pointed out that the Energy Adviser intended to insulate Mr. Bowen's services in the course of the year from any official actions affecting his company's financial interests and that, in view of this insulation:

> "I believe that you and Mr. Bowen can be assured that he is not participating personally and substantially in the Government consideration of a matter in which he and his company have a financial interest. This conclusion retains its validity for as long as Mr. Bowen's work is confined as outlined by the Energy Advisor."

The memorandum stated that, in view of this conclusion, it was not necessary for Mr. Simon to consider making the determination provided for in 18 U.S.C. 208(b) that Mr. Bowen's and Phillips' financial interests were not so substantial as to be deemed likely to affect the integrity of his services.

The memorandum also indicated that Mr. Bowen had been specifically advised of those provisions of the Department's minimum standards of conduct of which he should be particularly aware, including provisions concerning outside financial interests and the disclosure of confidential information. A copy of the memorandum from General Counsel is included as Appendix IV.

IS THE EMPLOYEE A MEMBER OF THE "KITCHEN CABINET" AND WHAT IS THE THE DEFINITION OF THE "KITCHEN CABINET", DOES IT MEET REGULARLY, WHO ARE ITS MEMBERS, AND WHAT IS ITS ACTUAL INTENT, AND WHAT IS THE EMPLOYEE'S ROLE IN THIS ACTIVITY?

According to Mr. Bowen and other FEO officials, Mr. Bowen was not regarded as part of the "kitchen cabinet." According to Mr. Johnson, "kitchen cabinet" was a term used by Mr. Simon to describe meetings of the Administrator, Deputy Administrator, and assistant administrators of FEO which were held to discuss problems affecting FEO. According to Mr. Johnson, this group originally met at 6 o'clock each week night but eventually the FEO officials lost interest in such meetings. In January the meetings were replaced with "issues meetings" which were held sometime in the afternoon every Tuesday and Friday. According to Mr. Johnson, the meetings were intended to focus on basic problems and were chaired by the FEO Administrator's Executive Assistant. He said the meetings were attended by assistant administrators, deputy assistant administrators, and other members of the FEO staff which had technical expertise on the particular problem being discussed. Mr. Johnson told us that decisions were not reached at the "kitchen cabinet" or "issues meetings"; rather, the meetings provided a forum for debate. Mr. Johnson said that Mr. Bowen attended several "kitchen cabinet" or "issues meetings" at which the issue being discussed was particularly relevant to Mr. Bowen's area of expertise.

Mr. Bowen could recall attending only one such meeting at which he gave a technical presentation on the transportation of residual fuel oil and the possibilities of coal switching. He said he was there for only part of the meeting and that his presentation took about 4 to 5 minutes. Mr. Bowen stated that he had no documentation for his presentation and that he left the meeting after presenting his views.

HAS THE EMPLOYEE IN FACT WRITTEN LEGISLATIVE PROPOSALS AND/OR REGULATIONS OR POLICY PAPERS FOR THE ADMINISTRATOR OF THE FEO AND HAS HE PARTICIPATED OR WRITTEN REGULATIONS AND/OR LEGISLATIVE PROPOSALS RELATING TO OR AFFECTING THE PROPANE INDUSTRY AND/OR THE ALLOCATION OF PROPANE?

According to Mr. Johnson and Mr. Bowen, Mr. Bowen did not draft any material relating to regulations or legislation. Mr. Bowen on several occasions was asked to comment on such material. According to

Mr. Johnson, the Deputy Assistant Administrator for Policy Analysis was responsible for reviewing all comments submitted by Mr. Bowen. Mr. Bowen said that he had not been involved in drafting propane pricing regulations but had seen such regulations after they had been drafted. He said he had seen the draft of the propane allocation regulations and had commented on them. Mr. Johnson said that Mr. Bowen was one of a number of the Office of Policy Analysis staff who provided advice to Mr. Johnson. Mr. Johnson said the Office of Policy Analysis merely comments on proposed policies and regulations or changes thereto. He said that, aside from the Administrator and Deputy Administrator of FEO, the General Counsel, for all practical purposes, has the final authority for determining FEO's final position on proposed regulations or revisions to such regulations. According to Mr. Johnson, the comments of the Office of Policy Analysis had been given little weight in the adoption of FEO's final decisions.

IS THERE ANY INDICATION WITHIN THE FILE OF OFFICIAL CORRESPONDENCE OF CONTINUING RELATIONSHIPS WITH FORMER EMPLOYERS AND/OR ANY OTHER PATTERN WITHIN OFFICIAL CORRESPONDENCE WHICH WOULD BE IN CONFLICT WITH THE EMPLOYEE'S DUTIES AS A PUBLIC SERVANT?

Only one document in the file of Mr. Bowen indicated correspondence with Phillips. The document was a copy of a letter dated April 5, 1974, from a Washington, D.C., representative of Phillips to Mr. Johnson concerning FEO's proposed propane pricing regulations. Mr. Bowen's personnel files substantiated much of what he had told us. His files contain numerous drafts of regulations and/or position statements and evidenced his handwritten notations on the margins of such papers. Mr. Bowen said that he made most of his recommendations to Mr. Johnson verbally and that his handwritten notations reflected his comments.

Mr. Bowen's files also contained working paper schedules and summary data. Mr. Bowen told us that he often contacted oil industry personnel by telephone for technical information. He said he was acutely aware of potential conflict of interest problems in his calling Phillips and that he did contact Phillips personnel for strictly technical information on two or three occasions. Mr. Bowen told us that he had talked to Phillips personnel employees on several occasions regarding his thrift plan and positions he might assume when he returns to Phillips in June. He has continued his monthly contributions to the Phillips thrift plan.

Mr. Bowen said that, since coming to FEO, he had been advised of his responsibility to avoid potential conflict of interest situations involving Phillips. Mr. Johnson said that on several occasions Mr. Bowen had refused to perform certain assignments that Mr. Johnson had requested because of Phillips' involvement in the subject area. Mr. Johnson indicated that his reminders to Mr. Bowen about potential conflict of interest situations had been minimal because of Mr. Bowen's awareness of potential conflict of interest situations.

WHAT MEASURES HAVE BEEN OR ARE BEING TAKEN TO ASSURE THAT THE EMPLOYEE OR ANY OTHER IS IN COMPLETE COMPLIANCE WITH CONFLICT OF INTEREST STATUTES AS REGARDS THEIR WORK WITH THE FEDERAL GOVERNMENT AND THE EMPLOYER FROM WHOM THEY ARE ON LEAVE AND/OR INDUSTRY WHICH IS AFFECTED BY THEIR WORK?

Measures taken by Treasury's Office of General Counsel before Mr. Bowen's original employment have already been described. In addition, in a memorandum dated October 4, 1973, Treasury's General Counsel informed Mr. Johnson that Mr. Bowen's job description had been reviewed and that the description itself created no conflict of interest problems. The memorandum noted that, as long as Mr. Bowen's activities were limited to those set forth in the accompaniment to Treasury's General Counsel's June 13, 1973, memorandum to Mr. Simon, he would not be violating the conflict of interest statutes. Subsequently, on December 4, 1973, Mr. Bowen was detailed to FEO.

According to officials of FEO and Treasury, the employee and his immediate supervisor have primary responsibility for insuring that an employee is not faced with a conflict of interest situation. Treasury's General Counsel stated that Mr. Bowen was advised of his duties and his responsibility to avoid conflict of interest situations at the time of his employment.

According to FEO's General Counsel, FEO implemented its conflict of interest monitoring program in February 1974. On February 6, 1974, FEO employed a career lawyer to implement FEO's conflict of interest program. On February 11, 1974, the FEO Administrator issued a memorandum to all FEO personnel concerning conflict of interest. The memorandum stated that all employees should be aware of and observe the "Standards of Conduct for the Executive Office of the President." In the memorandum, the Administrator designated FEO's General Counsel as the FEO Standards of Conduct Counselor and directed each senior staff member to take certain actions with respect to all employees and applicants within their jurisdictions, including reminding all present employees in grades GS-13 and above to submit Confidential Statements of Employment and Financial Interests through their supervisors. (A copy of the memorandum is included as Appendix V.

According to FEO General Counsel officials, each supervisor was required to review the financial disclosure statements to determine whether the employees' assigned duties presented a conflict of interest situation. In those cases where the employees' supervisor determined that there was a potential conflict of interest situation or where the General Counsel felt there might be a conflict, despite a supervisor's statement to the contrary, follow-up interviews were held with the individual employees or the supervisors.

According to FEO General Counsel officials, Mr. Bowen was identified as a potential conflict of interest problem some time ago. On April 8, 1974, FEO's General Counsel submitted a memorandum to the Administrator

concerning Mr. Bowen's potential conflict of interest situation. The General Counsel's memorandum noted that Mr. Bowen had a financial interest in Phillips by virtue of his participation in the thrift and retirement plans of the company and more importantly because of his continuing and prospective employment with the company. The memorandum noted the previous review of Mr. Bowen's employment by the Treasury's General Counsel but pointed out that the duties of Mr. Bowen's organization had changed materially since FEO was created and that Phillips' interests were now more directly affected by FEO's decisions and actions than they were when Mr. Bowen was at Treasury.

The General Counsel's memorandum contained the following statement with respect to Federal statutes involving conflicts of interest and Mr. Bowen's duties:

> "18 USC 208 declares it to be a crime (not a civil offense) for an officer or an employee of the Executive Branch to 'participate personally and substantially as a Government officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a judicial or other proceeding * * * or other particular matter in which, to his knowledge, he * * * has a financial interest.' The fact that Mr. Bowen might only make recommendations, render advice, or make investigations at the direction of Mr. Johnson would not place him outside the reach of the statute. Quite the contrary, it would place him squarely within the language of the statute * * *.
>
> "If, indeed, the nature of Mr. Bowen's duties has changed so that he participates in decisions or renders advice on matters which have a direct impact upon Phillips Petroleum, then Mr. Bowen's activities would be outside the guidelines established by Mr. Johnson in June and would violate 18 USC 208. Mr. Johnson, however, as Mr. Bowen's immediate superior, is in the best position to assess the degree to which Mr. Bowen's duties have been altered by virtue of the creation of FEO and the regulatory missions assigned it."

The memorandum pointed out that, if Mr. Bowen's current duties may be determined to involve a conflict under the statute and if nevertheless it was considered in the public interest that he be retained in such duties, the Administrator, FEO, may determine in writing that the financial interest "is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect from such officer or employee." The memorandum recommended certain procedures which should be followed if such a determination were made.

Regarding previous considerations of Mr. Bowen's position, the memorandum contains the following paragraph:

> "It is my understanding from several conversations with you, Mr. Johnson and Mr. Parsky dating from early January that you have considered Mr. Bowen's situation and that it was concluded that any conflict was insubstantial. Nonetheless, a written determination would be necessary to formalize such a decision."

Mr. Parsky is an Executive Assistant to the Administrator. According to FEO's General Counsel, Mr. Simon made no such written determination. A copy of the April 8, 1974, memorandum is included as Appendix VI.

On April 24, 1974, FEO's General Counsel sent a memorandum to the FEO Administrator, John C. Sawhill, concerning Mr. Bowen's potential conflict of interest. The memorandum outlined previous steps that the Treasury and FEO's General Counsel had taken with respect to Mr. Bowen and contained, as an attachment, Mr. Johnson's previously described April 17, 1974, memorandum to Mr. Simon concerning Mr. Bowen's duties at FEO. The FEO General Counsel's memorandum concluded that Mr. Johnson's memorandum:

> "* * * clearly suggests that Mr. Bowen deals with technical matters to the exclusion of policy consideration; however, this response seems deficient in two respects from the conflict standpoint. First, and perhaps most important, it lacks the positive assurances that Mr. Bowen is fully insulated from the policy-making process which were contained in the materials prepared for his work in the Treasury Department. Second, item number two could be construed to relate to policy making in the context of our regulatory program.
>
> "From the materials developed to date, I do not believe that the potential conflict problem has been resolved in this case. I therefore recommend that immediate consideration be given to such further action as may be necessary to resolve the matter."

A copy of the memorandum to Mr. Sawhill is included as Appendix VII.

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Since the passage of the Petroleum Allocation Act of 1973 and the creation of FEO, the duties of Mr. Bowen and the Office to which he is assigned have changed. FEO's General Counsel has recently expressed particular interest in Mr. Bowen's situation because of his potential impact on FEO regulations relating to petroleum products and has recommended that the FEO Administrator consider appropriate action to resolve the potential conflict of interest problem.

Mr. Bowen's duties and responsibilities in FEO's Office of Policy Analysis, including his involvement in commenting on FEO's policies and regulations as they relate to the oil industry, may possibly be in violation of 18 U.S.C. 208. Since 18 U.S.C. 208 is a criminal statute the determination whether it has been violated in a particular case is not within our jurisdiction, but rather is a matter for consideration by the Department of the Justice and the courts. Accordingly, we are forwarding a copy of this report to the Justice Department for such investigation and action as that Department deems warranted.

As agreed, we did not obtain the formal comments of FEO or the Treasury Department on this report, but are advising appropriate officials of both agencies of our actions and furnishing them copies of the report.

We plan to report to you further concerning other FEO employees engaged in the interchange program. We do not plan to distribute this report further unless you agree or publicly disclose its contents.

Sincerely yours,

Phillip S. Hughes
Assistant Comptroller General

TO: William E. Simon

FROM: Bill Johnson WEJ

SUBJECT: Duties of Robert C. Bowen

During his year's service with the Office of the Energy Advisor under the President's Executive Exchange Program, Robert C. Bowen will be used primarily to collect and analyze factual data and provide technical calculations and studies where subjective judgment and advice are not required. Typical studies for which we expect to use Mr. Bowen are as follows:

1. Develop data pertaining to present and future foreign oil operations, refinery capabilities, U.S. and foreign flag tanker tonnage, and balance of trade outflows relating to such trade.
2. Analyze foreign financial, physical and manpower capabilities that may limit or impede foreign producing countries from reaching probable or announced goals.
3. Assist in the preparation of an analytical base for providing surveillance of the Federal Government's oil import control program as authorized by Treasury Department Order No. 225.
4. Cost studies of petroleum storage, refining and pipelines.

5. Prepare background papers on the U.S. petroleum industry to be used for briefing other staff members, the OPC and others. To the extent possible, we will limit Mr. Bowen's participation to briefings involving Treasury officials only. In no event will Mr. Bowen represent the Treasury Department at outside briefings, except as an assistant.

6. Energy conservation studies (potential energy savings).

Mr. Bowen will be excluded from meetings involving future policy or policy changes, and will not represent the Treasury Department in any meetings where policy questions might arise. We believe that the bulk of Mr. Bowen's activities will require him to review and analyze technical and factual information which is publically available. Mr. Bowen will not be granted access to confidential information supplied by oil companies and will not analyze financial data of individual companies or the competitive relationship of individual companies.

Mr. Bowen will at all times work directly under my supervision, or under the supervision of another member of the staff. On any matter in which in my judgment a possible confict of interest could arise, Mr. Bowen will be excluded, or limited to supplying factual data or engineering analyses. Mr. Bowen and any staff supervisor working with him have the responsibility to call to my

attention any area of work which may present a conflict with the financial interest of Mr. Bowen, personally, or the Phillips Petroleum Company.

This office will furnish to the Office of the General Counsel for review any proposed additions to or changes in Mr. Bowen's duties.

Position Description

8. CLASSIFICATION ACTION

(b) Other (specify)
Potential

7. Date received in C.S.C.

Allocation by	Classification Officer's Determination	Grade	Series	Grade	Points	Effective
a. Classification Officer's Determination						
b. Classification Officer's Determination						
	Petroleum Engineer	GS	881	15		
d. Final Determination						
e. Classification by Individual Position	Petroleum Engineer	GS	881	15		

9. Official Title of Position (Include Parenthetical Title if any)
Petroleum Specialist

10. Name of Employee (If vacant, enter "Vacant")
Robert Bowen

a. Department
Treasury Department

b. Bureau
Office of the Secretary

c. Subdivision
Office of Energy and Minerals
Office of Mineral Resources and Energy

d. Fourth subdivision

e. Fifth subdivision
Office of the Deputy Secretary

f. Sixth subdivision

11. Certification: I certify that the above and accurate description of the duties and responsibilities of this position.

(Signature of Supervisor) (Date)

12. Certification: I certify that the above and accurate description of the duties and responsibilities of this position.

Special Assistant to the Deputy Secretary
Title

13. Certification by Head of Bureau, division, field office, or Comparable Unit Administrator

(Signature) (Date)

Title

14. Concurrence by Personnel Officer, Field Office, or Comparable Unit Administrator

C. Michael Brocken, Chief
Title

15. Classification by Department, Bureau, or Field Office

Robert G. Lagon
Acting Director of Personnel

I. Introduction

This office advises the Deputy Secretary concerning the international economic and financial issues of domestic and international interest in resources and energy. The office will also [illegible] the [illegible] [illegible] be heated crude oil, [illegible] and [illegible] gas, as well as tariffs and quotas, financial and investment policies, monetary arrangements, balance of payments considerations, price controls, loans and guarantees, and revaluation of the dollar as they affect U.S. natural resource and energy needs.

BEST DOCUMENT AVAILABLE

Robert G. Lagon
Acting Director of Personnel

The work of the staff will include coordination with other Government agencies concerned with natural resources and energy, on the one hand, and the various parts of the Treasury concerned with tax policy, trade policy, economic policy, international affairs and monetary affairs on the other hand, in an effort to develop a consistent Treasury and U.S. Government policy dealing with international economic and financial aspects of U.S. natural resources and energy.

The staff will concern itself with the supply and demand needs for significant natural resources and energy resources of the U.S. economy and make recommendations to the Deputy Secretary about the most appropriate investment, financial tax, trade, price control, balance of payments, monetary, and international policies which will produce a favorable U.S. balance of trade, payments and supply-demand balance for natural resources and energy.

II. Duties and Responsibilities

1. Develop data pertaining to present and future foreign oil operations, refinery capabilities, U.S. and foreign flag tanker tonnage, and balance of trade outflows relating to such trade.

2. Analyze foreign financial, physical and manpower capabilities that may limit or impede foreign producing countries from reaching probable or announced goals.

3. Cost studies of petroleum storage, refining and pipelines.

4. Prepare background papers on the U.S. petroleum industry to be used for briefing other staff members.

5. Energy conservation studies (potential energy savings).

III. Supervision and Guidance Received

Reports to the Special Assistant, who provides general direction and guidance. The incumbent is expected to exercise a high degree of professional expertise and judgment in the accomplishment of assigned [illegible] in coordinating the [illegible] with other Federal agencies [illegible] of the Treasury Department [illegible] Petroleum Industry [illegible] Interests Division.

IV. Qualifications Required

This position requires:

— A professional engineering background.

— A high degree of technical competence, good knowledge of the oil industry, and the ability to make independent investigation with only nominal supervision.

-- Ability to communicate with other professionals in the fields of petroleum engineering and economics.

-- Ability to plan and carry out complex assignments.

-- Ability to conduct professional analysis orally or in writing, on very short deadlines and under pressure.

-- Ability to conceptualize policies and procedures, and be able to follow through until completion.

-- Ability to write well.

OFFICE OF POLICY ANALYSIS AND EVALUATION

Assistant Administrator for Policy Analysis and Evaluation

The Assistant Administrator for Policy Analysis and Evaluation reports to the Administrator and Deputy Administrator of the Federal Energy Administration. The function of the Assistant Administrator is to review program operations and to carry out broad program and policy evaluation leading to the development and adoption of FEA policy and programs. The Assistant Administrator reviews proposed policies developed with the Federal Energy Administration. He also carries on liaison with other agencies of the Government concerned with energy policies and programs.

The Office of the Assistant Administrator includes the Deputy Assistant Administrator, a Director for Technical Policy, a Director for Energy Production Policy, a Director for Economic Policy, a Director for Regulatory Policy and an Executive Officer.

The Assistant Administrator participates in the planning of programs and policies of the Federal Energy Administration dealing with the production, refining, processing, transportation, storage, distribution, and consumption of all forms of energy, including oil, natural gas, coal, nuclear energy, and other forms. He reviews and analyzes conservation programs, prices, allocation programs, and forecasts; he maintains liaison with the energy industry, and is actively concerned with such technical matters as recovery techniques, methods of stimulating energy production, and problems of the environment.

He reviews and makes recommendations on regulations and legislation in the energy field. He develops demand and supply analyses and forecasts for U.S. energy, together with program recommendations. He helps to plan necessary actions to bring supply and demand into balance. He analyzes import substitution programs, evaluates research and development alternatives, and maintains liaison with other Government agencies concerned with technical aspects of energy.

The Assistant Administrator participates in economic planning for the Federal Energy Administration and analysis and review of Federal Energy Administration programs and policies which deal with economic and financial issues concerning all forms of energy, including petroleum, natural gas, coal, and nuclear energy.

He also participates in the analysis of economic energy policies in both domestic and international fields. In connection with international programs and policies, his functions include analysis of policies on international reserves, production, transportation, international cartels, trade agreements, world prices, balance of payments aspects, monetary and financial flows, import controls, international loans and guarantees in the energy field, and long-term commodity agreements. In domestic planning, he works with the U.S. Treasury Department tax personnel to develop plans for taxes, and other regulations which have an impact on energy matters. He is also concerned with the pricing of energy, rate regulations, and Government research and development programs in the energy field. He reviews and participates in planning FEA programs with regard to financing energy facilities, construction and conducting liaison with other Government agencies concerned with these matters.

The Executive Officer is responsible for all services concerned with personnel and training, library service, building services, contracts, budget, organization, security, administrative controls, space, telephone, furniture and equipment.

APPENDIX IV

Date: JUN 13 1973

MEMORANDUM FOR: DEPUTY SECRETARY SIMON

From: Edward C. Schmults
General Counsel

Subject: Conflict-of-interest considerations in the employment of Robert Bowen

You asked Mr. Brecht, in your memorandum of May 15, to take the necessary steps to effect the employment under the President's Executive Interchange Program of Robert C. Bowen, presently Manager, Planning and Correlation, Refined Products, of the Phillips Petroleum Company, because of the need of the Office of the Energy Advisor for his experience in the oil industry. Under the President's Executive Interchange Program, an executive in the private sector is on a year's leave of absence from his private company during his Federal employment, and retains the fringe benefits of his private employer. The Interchange Program explicitly provides that private sector executives entering Government service are subject to the same conflict-of-interest laws and regulations that are applicable to Federal employees. If the proposed employment presents a conflict-of-interest question, the matter is to be considered by the General Counsel of the Federal agency involved. The proposed employment does present such a question, and I have therefore been asked by Mr. Brecht to advise you concerning it.

The conflict-of-interest question arises from the prohibition in the criminal code, 18 U.S.C. 208(a), which provides that a Government employee is subject to fine and imprisonment if he participates personally and substantially as an employee through any official activity, including rendering advice or investigation, in a particular matter in which, to his knowledge, he, his spouse, minor child, or organization in which he is serving as an employee, or with whom he has any arrangement for prospective employment, has a financial interest. Mr. Bowen has a financial interest in the Phillips Petroleum Company by virtue of his participation in the thrift and retirement plans of that company (the thrift plan includes Phillips Petroleum stock), and, more importantly, by virtue of his continuing and prospective employment with the company. Consequently, there is the question whether he will be rendering advice on matters in which he personally has a financial interest. Furthermore, the statute forbids official participation by a Government employee in any matter in which the private company in which he is an employee, or a prospective employee, has a financial interest. Consequently, it is necessary to recognize also that the Phillips Petroleum

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Ex. S
Surname	Lloyd	Rigger	Brecht	Johnson		
Initials / Date						

Company has a financial interest in the activities of the Office of the Energy Advisor.

The Energy Advisor, in recognition of the prohibition in 18 U.S.C. 208(a), proposes in his accompanying memorandum to you to use the services of Mr. Bowen only in technical studies relating to the oil industry in general and not with respect to individual companies, and to exclude Mr. Bowen from policy considerations and the development of programs which may affect the financial interest of the Phillips Petroleum Company specifically, or other companies in competition with that company. The Energy Advisor thus intends to insulate Mr. Bowen's services throughout the course of his year's service from any official actions affecting the financial interest of his company. In view of this insulation of Mr. Bowen's services from his and his company's financial interest, I believe that you and Mr. Bowen can be assured that he is not participating personally and substantially in the Government consideration of a matter in which he and his company have a financial interest. This conclusion retains its validity for as long as Mr. Bowen's work is confined as outlined by the Energy Advisor.

In view of this conclusion I think that it is not necessary in the effectuation of Mr. Bowen's employment for you to consider making the determination provided for in 18 U.S.C. 208(b) that the financial interest of Mr. Bowen and of the Phillips Petroleum Company is not so substantial as to be deemed likely to affect the integrity of his services.

Representatives of this office have discussed the application of 18 U.S.C. 208(a) to Mr. Bowen's work with him and with a representative of the Office of the Energy Advisor. Mr. Bowen has also been specifically advised of those provisions in the Department's Minimum Standards of Conduct of which he should be particularly aware, including provisions concerning outside financial interest and the disclosure of confidential information.

cc: Warren Brecht
Robert Bowen
William Johnson

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

01 FEB 1974

OFFICE OF THE ADMINISTRATOR

MEMORANDUM

TO : All FEO Personnel

FROM : William E. Simon
Administrator

SUBJECT: Conflict of Interest

It is not the policy of FEO to impose unnecessary limitations upon employees' outside interests, associations, or activities. Certain limits are established by law, however, and others are essential as a matter of policy if we are to continue to earn and maintain a high degree of public confidence in our fairness and integrity. This is especially important in a program such as ours which is highly visible and which depends greatly for its success upon public cooperation.

I therefore want to address a personal admonition to each of you to make certain that you know and understand the guidance set forth in The Standards of Conduct for the Executive Office of the President, 5 CFR, Part 100, and to emphasize that I shall expect and require that these standards be scrupulously observed.

In keeping with this policy, I am today designating the General Counsel, William N. Walker, as the FEO Standards of Conduct Counselor. He and members of his staff will be available to FEO personnel to answer questions and provide guidance. I am also directing each Senior Staff Member to take the following actions with respect to all employees (and applicants) subject to his jurisdiction:

1. Remind all present employees GS-13 and above to submit their Confidential Statements of Employment and Financial Interests, through their supervisors, to the Standards of Conduct Counselor immediately, if they have not previously done so;

2. Insure distribution to all applicants and present employees of the Standards of Conduct Regulations (5 CFR Part 100);

3. Advise all present full-time employees that they are required to specifically request and obtain approval for any outside employment;

4. Advise each applicant for empl ment (GS-13 and above) that the processing of his or her application will not be started until he or she has filed a Confidential Statement of Employment and Financial Interests with the Standards of Conduct Counselor and he or his designee is satisfied that there is no conflict of interest or that any existing conflict has been eliminated.

I anticipate your full cooperation in this important matter.

APPENDIX VI

APR 8 1974

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR WILLIAM E. SIMON

FROM: William H. Walker
General Counsel

SUBJECT: Potential Conflict of Interest Problem -
Robert C. Baron

I recall that Mr. Baron's appointment, pleasing and competent, [illegible] for the Phillips Petroleum Company [illegible] to the Treasury Department and the President's [illegible] Program. Mr. Baron has a financial interest in the Phillips Petroleum Company by virtue of his participation in the corporate retirement plan of that company (the Thrift Plan holds Phillips Petroleum stock), and is personally, by virtue of his [illegible] and professional employment with the company.

[illegible] by the General Counsel of the Treasury [illegible] to Mr. Baron's category of duty. Mr. Baron concluded that [illegible], in Mr. Baron's services to the Government are confined to [illegible] to you from Bill Johnson, the conflict of interest [illegible] resolved later. (A copy of Mr. Baron's June 1, 1973 [illegible] letter's [illegible] setting forth the duties [illegible] are attached.) Mr. Johnson proposed to use the services of Mr. Baron only in technical studies relating to the oil industry in general and not with respect to individual companies and to [illegible] from policy considerations and the development of [illegible] which might affect the financial interest of Phillips Petroleum [illegible] in competition with Phillips. [illegible] Mr. Baron's [illegible].

[illegible] the mandate of the Federal Energy Office is greatly [illegible], [illegible], the role of the Energy Adviser has materially changed. [illegible] Bill's real responsibilities are to advise you, as Director of [illegible], on policies and programs to be used in regulating the oil industry. There is greater potential for conflict in this expanded regulatory role than was previously the case. Phillips Petroleum has an obvious

BEST DOCUMENT AVAILABLE

[illegible]

18 U.S.C. 208 [illegible] it to be a crime (not a civil offense) for [illegible] officer or [illegible] employee of the [illegible] to "participate personally and substantially as a [illegible] through decision, approval, disapproval, [illegible] in [illegible] which, to his knowledge, he . . . [illegible] financial interest." [illegible] of Mr. Johnson [illegible] contrary, it [illegible]

[illegible] it.

[illegible] that Mr. B[illegible]'s current duties [illegible] involve a conflict [illegible] public interest [illegible] (b) of 18 U.S.C. 208 [illegible] (Part [illegible] of [illegible]) [illegible] that the financial interest "is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee." [illegible] determination [illegible] to render inapplicable the criminal prohibition [illegible] otherwise would apply to such a conflict.

Should you consider making such a determination, I recommend the following procedure:

1. That Mr. [illegible] full disclosure of his financial [illegible] Mr. Johnson;

2. That Mr. Johnson evaluate Mr. Bowen's current duties in light of the financial interests disclosed to him by Mr. Bowen;

3. [illegible] Mr. Johnson concluded that a conflict may exist, and that it is [illegible] in the public but rather to protect Mr. [illegible]'s duties [illegible] to avoid a possible conflict, Mr. Johnson [illegible] appropriate [illegible] relations to [illegible] subject to [illegible] by a written [illegible] as described above. We will be glad to assist in preparing any necessary documents.

It is my understanding from [illegible] conversations with you, Mr. Johnson and Mr. Farley [illegible], from early January that you have considered Mr. Foreman's situation and that it was concluded that any conflict was hypothetical. If so, [illegible], a written [illegible] would be necessary to [illegible] such a decision.

Such written decisions are rarely made. Nevertheless, the public [illegible] of a particular [illegible] [illegible] public. For your information, however, Section 4(i) of the [illegible] Bill would [illegible] such [illegible] and [illegible] upon thirty days [illegible] notice to the Congress, with a detailed justification concerning [illegible] authority is proposed to be exercised.

OGC:EJFYGL:cda 4/8/74
Room 5108 X3101

APPENDIX VII

FEDERAL ENERGY OFFICE
WASHINGTON, D.C. 20461

APR 24 1974

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR JOHN C. SAWHILL

FROM: William N. Walker
General Counsel

SUBJECT: Potential Conflict of Interest - Robert C. Bowen

As you know, I have on several occasions discussed with Bill Simon, Bill Johnson, and Gerry Parsky the conflict of interest ramifications of Robert Bowen's work at FEO, which deserves our close attention in light of Mr. Bowen's status as a participant in the President's Executive Interchange Program. Participants in that program retain a financial interest in the employers from whom they have taken leaves of absence during their tours with the Federal government.

Mr. Bowen originally joined the staff of the Energy Advisor to the Under Secretary of the Treasury before FEO was established and before the comprehensive regulatory program of the oil industry was enacted into law. The General Counsel of the Treasury, Mr. Edward Schmults, concluded that Mr. Bowen's employment with the Energy Advisor did not pose a potential conflict in light of a description of Mr. Bowen's duties which contained affirmative restrictions assuring that he would not be involved in any manner, including the rendering of advice, in making policy decisions. One copy each of Mr. Schmults' memorandum of June 13, 1973, and of the description of Mr. Bowen's duties on which that memorandum was based is attached.

On April 8, 1974, I sent Bill Simon a memorandum, a copy of which is also attached, in which I recommended that Bill Johnson reassess Mr. Bowen's duties to ascertain whether a potential conflict of interest might exist under the present circumstances, in which case prompt consideration should be given to whether the interest involved "is not so substantial as to be deemed likely to affect the integrity" of Mr. Bowen's services to FEO.

Following receipt of my memorandum to Bill Simon, Gerry Parsky asked Bill Johnson to review Mr. Bowen's current duties at FEO in the context of Mr. Schmults' memorandum and Mr. Bowen's original job description. Bill Johnson responded on April 17, 1974, with a memorandum, a copy of which is attached, which clearly suggests that Mr. Bowen deals with technical matters to the exclusion of policy consideration; however, this response seems deficient in two respects from the conflict standpoint. First, and perhaps most important, it lacks the positive assurances that Mr. Bowen is fully insulated from the policy-making process which were contained in the materials prepared for his work in the Treasury Department. Second, item number two could be construed to relate to policy making in the context of our regulatory program.

From the materials developed to date, I do not believe that the potential conflict problem has been resolved in this case. I therefore recommend that immediate consideration be given to such further action as may be necessary to resolve the matter.

Attachments