



DEPARTMENT OF STATE  
BRIEFING MEMORANDUM

S/S

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February 16, 1976

To : The Secretary

From: L - Monroe Leigh *M.L.*

Telephone Memoranda

Problem

As you know, William Safire has made a request under the Freedom of Information Act (FOI) for certain "transcripts of your telephone conversations" (Tab 1). By letter dated February 11 (Tab 2), the Department denied the Safire request, principally on the ground that your telephone memoranda are not "agency records" subject to the FOI.

A second FOI request, from Norman Kempster of the Washington Star, asks for "all transcripts" of your conversations with President Nixon (Tab 3). The due date for responding to this request is February 24. The request will undoubtedly be denied on grounds similar to those mentioned in the letter to Safire.

The principal problem, however, is not legal but political. It is virtually certain that William Safire and others will try to sensationalize the telephone memoranda. And they will probably begin litigation challenging the denial of their FOI requests, which will further mobilize public attention.

We should, therefore, consider steps that should be taken now which will (a) defuse unfounded suspicion while (b) protecting your right to access to these memoranda, (c) protecting sensitive foreign policy information and (d) preserving the privacy rights of yourself and others.

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Discussion

Safire has asked for all telephone memoranda which contain either a reference to him by name, or a discussion of "leaks" in telephone conversations between you and either President Nixon, Mitchell, Haig, Hoover, or other FBI officials (see Tab 1). Since Safire's letter specifically mentions the period of January 21, 1969 to February 12, 1971, we have construed his request as being limited only to memoranda which originated during that period.

The Kempster request seeks all memoranda of conversation between you and President Nixon (see Tab 3). The request is not limited to any particular subject matter. Since it refers to "President" Nixon, we can at least limit it to the period of January 20, 1969 to August 9, 1974.

From a legal standpoint, we have a number of defenses to these FOI requests which we consider to be sound. Moreover, our approach in resisting these requests has been orally approved by Philip Buchen and by Assistant Attorney General Scalia. Mr. Scalia also reported that Attorney General Levi supports the principle of our position.

Current Legal Defenses

The Department's letter denying the Safire request (see Tab 2) is based upon the following legal defenses:

- The FOI Act applies only to "agency records." We have some basis for claiming that since your telephone memoranda are simply personal papers or personal work aids; since they have been kept in your custody or that of your immediate assistants; and since any substantial government decisions referred to in them are probably described in detail in other government records, the memoranda should not be characterized as "agency records."
- Telephone memoranda which originated in your former White House office were made in your capacity as Special Assistant to the President and, thus, cannot be the records of any "agency" under the accepted legislative history of the FOI Act.

- Since all conversations between you and President Nixon presumably involve direct advice to a President, memoranda of these conversations should not be considered agency records.
- Even if the memoranda were characterized as "agency records," they would be protected under exemption 5 of the FOI, which protects materials reflecting the deliberative process in the formulation of government decisions and policies.
- Many of the memoranda are also protected under exemption 1, which exempts classified material.
- Disclosure of many, if not all, of the memoranda would violate rights of privacy.

Public Reaction

Even though the foregoing defenses will undoubtedly protect your telephone memoranda from FOI disclosure, the legal process of litigating these issues will focus public attention on the memoranda. We feel virtually certain that William Safire will take our denial of his request to court. He may do this immediately or he may first seek an administrative appeal from the Department before going to court. In either event, we are likely to see more Safire columns and newspaper stories by others on this subject. In our judgment, we need to take steps now to place your position in a more favorable light than would appear from the mere legal defenses which will be offered.

Ownership and the Nixon Papers Controversy

The question of ownership of a public official's papers is currently being contested in the Nixon papers litigation. This has not always been an area of controversy. For example, a Cabinet Paper from the Eisenhower Administration expressly states that retiring heads of Departments may take with them "memoranda of conferences and telephone calls" as well as other "personal work aids."

Both during his administration and upon resigning from office, President Nixon asserted an ownership interest in all papers and materials generated at the White House while he was President. On September 7, 1974, upon leaving office, President Nixon entered into an agreement with the GSA Administrator, pursuant to 44 U.S.C. 2107 (Tab 4), by which he purported to donate to the Government all of these papers and materials (approximately 42 million items). In the agreement, Nixon reserved the right to destroy at his discretion any of the papers and tapes included in the "donation."

The agreement was made public immediately following the Nixon pardon, and added fuel to the public outcry. Subsequently, it was apparently decided at the White House that the United States should not go through with this donation agreement. Nixon then brought suit to implement the agreement. This lawsuit is still in litigation.

In December 1974, the Congress enacted the Presidential Recordings and Materials Preservation Act which directs the GSA Administrator to take complete possession and control of the Nixon papers. The GSA Administrator is required to propose regulations which will determine public access to the materials. The regulations will presumably protect national security information and materials whose disclosure would violate statutory or constitutional rights. It is contemplated that government archivists will catalogue the materials and return to President Nixon those papers which are clearly personal. Finally, the Act provides that if the courts ultimately determine that President Nixon or anyone else owns papers that are to be retained by the GSA Administrator, the Government is to pay just compensation under the Fifth Amendment for the value of the papers and materials taken.

In short, the entire question of ownership is confused. A lower court decision has held in effect that Nixon does not own any papers or materials in which government business is discussed, but this decision is subject to further court review.

It is possible that an eventual court decision may affect the disposition of your telephone memoranda -- e.g., it may indicate that the memoranda are part of the Nixon papers which must be transferred to the GSA Administrator under the Presidential Recordings and Materials Preservation Act. Indeed, it is conceivable that the GSA itself will contact you and others who served under President Nixon and request that you turn over various categories of papers.

Donating the Memoranda

It is our assumption that a potential adverse public reaction could be preempted if it were made clear that your telephone memoranda, and perhaps other papers, were to be placed in the possession and control of the United States subject to reasonable guarantees of access by you and restrictions on access by others. Such a donation of papers could moderate speculation and suspicion about matters appearing in the memoranda.

An actual or intended donation would seemingly have to be accompanied by two other steps. First, it would be important to obtain advance White House approval for both the method of donation as well as any restrictions accompanying the donation. Second, at the appropriate time, the actual or intended donation should be publicly announced in a manner that maximizes the understanding that the memoranda are being preserved for future public and historical use, and that the conditions accompanying the donation are reasonable (thus, at least by implication, distinguishing your donation from the one attempted by President Nixon).

Options

Your options appear to be (1) to keep the memoranda, treating them as purely personal papers and fight the ensuing lawsuit; (2) to donate and transfer the memoranda to the National Archives as soon as possible; (3) to sign an agreement now to transfer the memoranda to the National Archives upon your retirement; and (4) simply to announce an intention to donate the memoranda upon your retirement to some depository controlled by the Government. These options and their variations are discussed below.

1. Keep the memoranda, treating them as personal papers.

-- This would be consistent with the position the Department is taking in denying the Safire and Kempster requests -- i.e., since the memoranda are personal papers or personal work aids, they are not "agency records" subject to the Freedom of Information Act.

- However, the public reaction to this may be explosive. You may be accused of following President Nixon's claim that all White House papers were his personal property. You would have the personal expense of defending in court the claim of personal ownership.
  
  - If you kept the memoranda, you would have to make some arrangement for storing such of them as require classification. Since some of the memoranda contain classified information, federal approval would be needed for the storage area. You probably could not store the memoranda in any depository in the national archive system, unless you donated them to the United States. If the memoranda were stored at a State Department facility, such as at the U.N. Mission, this would enhance a claim that they were "agency records" of the State Department and thus subject to the Freedom of Information Act.
  
  - It may be more difficult for you to arrange a donation of the memoranda after you retire from office. You may not have close ties with a future Administration. Or, the ultimate outcome and ramifications of the Nixon papers litigation may require that you surrender or donate some of the memoranda under conditions less favorable than those you could obtain at present.
2. Donate and transfer the memoranda to the National Archives as soon as possible.

One way to defuse a potential adverse public reaction would be to donate and transfer immediately all the memoranda to the National Archives, except perhaps for the most recent ones. An immediate donation subject to reasonable conditions would remove any doubt as to your intentions. It raises the following considerations:

- Present Ownership of the Memoranda. Since legal ownership of all the memoranda is in doubt, a donation would have to be effective not only for memoranda ultimately found to be your personal property, but also for those found to be government records. A donation and transfer agreement can probably be phrased

so that (a) to the extent the papers are personal, you are signing the agreement in your personal capacity and donating them under 44 U.S.C. 2107 (see Tab 4), and that (b) to the extent they are government records, you are transferring them under 44 U.S.C. 2103 (Tab 5) in your capacity as head of an agency.

- Access and Copies for You. Irrespective of whether the memoranda are ultimately deemed to be private or government papers, you would be able in a donation agreement to secure the right of future access as well as copies of the memoranda. You could ask the National Archives to make copies before it takes the first steps in cataloguing the memoranda. Or, you could make copies before donating the memoranda, although this might create an issue for public speculation. There is one circumstance where you could in the future be denied access of copies: to the extent any of the memoranda were determined to be government records, a future Secretary of State could alter the conditions affecting such records under 44 U.S.C. 2104 (see Tab 5).
  
- Return of Personal Papers. Under a donation agreement, the Archives could be required to segregate those memoranda which involve discussions of purely personal matters, and to return these memoranda to you.
  
- Restrictions on Public Access. A donation and transfer agreement could in general terms specify effective restrictions on public access. For example, any of the memoranda containing discussions with or about foreign leaders, foreign states, or foreign policy alternatives, could be made subject to a period of non-disclosure equivalent to that which the State Department would normally specify when it transfers similar materials to the Archives. This period is generally thirty years\* from the date of a paper's

\*Intelligence information appears to be subject to a fifty year maximum period.

origination, subject to extension for national security reasons. It probably would not be wise to state this and other restrictions in too much detail because it would tend to make the agreement look more like the Nixon donation.

- Approval. Apart from advance White House approval, a donation agreement would have to be approved by the GSA Administrator -- he must approve all conditions and restrictions on private papers donated to the National Archives, 44 U.S.C. 2107 (see Tab 4). To the extent the memoranda are government records, separate approval of the restrictions would not be necessary, but one would need a determination by the Archivist that the memoranda were of historical value, 44 U.S.C. 2103 and 2104 (see Tab 5). Conceivably, one could attempt to make a donation without such prior approval. The memoranda might be transferred with a draft agreement to the National Archives, placing the burden on the Archivist and the GSA Administrator to accept, reject, or renegotiate the agreement while retaining custody of the memoranda.
- Cataloguing. Upon taking possession of the memoranda, the Archives would presumably in due course process the memoranda to identify and segregate personal papers, classifiable material, material containing references to foreign leaders, etc., and memoranda whose disclosure might violate rights of privacy. Cataloguing could take place either at the Archives or, conceivably, here at the State Department.
- Future Storage. The donation and transfer agreement could require that the memoranda be stored in the future at a designated depository in the national archives system, including one in New York.
- Reliability of Archivists. The National Archives has a first rate reputation for maintaining the security of documents in its possession. But one cannot discount the outside possibility that someone there may not adhere to customary standards of confidentiality.

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- FOI Defenses. A donation agreement could be structured so that our existing FOI defenses on the Safire request would not be prejudiced. Moreover, the donation agreement itself, because it is based on a statute permitting restrictions on disclosure, may itself provide an additional ground for non-disclosure: Exemption 3 of the FOI Act protects materials exempt from disclosure under other statutes. Also, the agreement could require the Archives to notify you of future FOI requests.
  - Other Papers Included. If other papers are donated together with the telephone memoranda, it would indicate that the donation is intended to preserve a broad record of your participation in foreign policy, rather than simply to protect the telephone memoranda.
  - Nixon Papers Litigation. A donation agreement should reduce, but will not eliminate, the possibility that the memoranda will ultimately be determined to be part of the Nixon papers that are subject to the Presidential Recordings and Materials Preservation Act of 1974. In fact, since GSA archivists under the 1974 Act are to have custody of the Nixon materials, the GSA Administrator may insist that your donation agreement not extend to any portion of your papers which are determined by GSA archivists to fall within the 1974 Act.
3. Sign an agreement now with the National Archives to donate the memoranda upon your retirement.
- The principle advantage of this option is that you would retain custody of the memoranda while you remain in office. You, of course, could have use of the memoranda simply by making copies. However, retaining actual custody would lessen the risk that persons outside the State Department would breach confidentiality.
  - Delaying the transfer poses a disadvantage if Safire goes to court to seek review of our denial of his FOI request. If the Archives were in the midst of processing the memoranda, one could argue to the court that the litiga-

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tion should be suspended until the processing is completed so that classified and other protected material could be identified and catalogued.

-- There may also be a public relations advantage to physically transferring the documents now rather than simply agreeing to transfer them in the future.

4. Announce an intention to donate the memoranda upon your retirement to some depository under government control.

-- An announced intention to donate papers in the future might be supported by an exchange of communications with the President, indicating his support for your commitment to have this valuable historical record preserved for the Government.

-- A statement of intention may give you greater flexibility in making a future donation; however, once you left office, your flexibility may be reduced either because a new Administration has taken office or because an adverse decision has been rendered in the Nixon papers litigation.

-- As in Option 3, this may not have the impact of an actual transfer. Also, we could not delay litigation by Safire and others on grounds that the Archives were processing the memoranda.

Recommendation

That you meet with Larry and us upon your return from South America to discuss the alternatives.

Approve \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Disapprove \_\_\_\_\_

cc: T - Mr. Maw  
M - Mr. Eagleburger

WILLIAM SAFIRE

January 14, 1976

The Secretary of State  
State Department  
Washington, D. C.

Sir:

Under the provisions of the Freedom of Information Act, as amended, I request information from transcripts of telephone conversations now in the custody of Mr. Lawrence S. Eagleburger of the State Department.

For verification of the existence of such records, your attention is called to "Federal Defendant Kissinger's responses to plaintiffs' first set of interrogatories", Civil Action No. 1187-13 in the U. S. District Court for the District of Columbia, pp. 46-47, which reads:

"With respect to records of telephone conversations in which I participated and correspondence I wrote or received during the period January 21, 1969 through February 12, 1971:

"Business telephone conversations from my White House office during this period were usually monitored by my personal secretaries and records prepared, in accordance with routine government practice, in order to facilitate implementation

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The Secretary of State

and follow-up of business transacted.

"Correspondence was deposited with White House Central Files or Substantive Files.

"71 B. Where and in whose custody are such records now? If you do not know where they are now, where and in whose custody were they last, to your knowledge?

"Response: All such records, with the exception of the records of my telephone calls, are in the White House. They are in the custody of the NSC staff. The telephone records are in the State Department, in the custody of Mr. Lawrence S. Eagleburger.

signature

HENRY A. KISSINGER"

1. Please send me photocopies of all transcripts (including rough drafts, if such exist) in which my name appears.

2. Please send me photocopies of all transcripts (including rough drafts, if such exist) of conversations between Mr. Kissinger and General Haig, or Mr. Kissinger and Attorney General John Mitchell, or Mr. Kissinger and J. Edgar Hoover, or Mr. Kissinger and any other official of the FBI, or of Mr. Kissinger and President Richard Nixon, in which the subject of "leaks" of

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The Secretary of State

information was discussed.

As you know, the amended Act provides that if some parts of a file are exempt from release that "reasonably segregable" portions shall be provided. I therefore request that, if you determine that some portions of the requested information are exempt, you provide me immediately with a copy of the remainder of the file. I, of course, reserve my right to appeal any such decisions.

If you determine that some or all of the requested information is exempt from release, I would appreciate your advising me as to which exemption(s) you believe covers the information which you are not releasing.

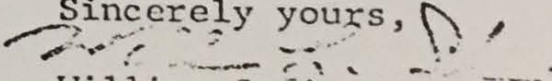
I am prepared to pay costs specified in your regulations for locating the requested files and reproducing them.

As you know, the amended Act permits you to reduce or waive the fees if that "is in the public interest because furnishing the information can be considered as primarily benefiting the public." I believe that this request plainly fits that category and ask you to waive any fees.

If you have any questions regarding this request, please telephone me at the number on this letterhead.

As provided for in the amended Act, I will expect to receive a reply within ten working days.

Sincerely yours,

  
William Safire

Social Security #: 103 22 7703

Date of Birth: 12/17/29

Place of Birth: New York, USA

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DEPARTMENT OF STATE

Washington, D.C. 20520

Tab 2

February 11, 1976

Mr. William Safire  
The New York Times  
Washington Bureau  
1920 L Street, N.W.  
Washington, D. C. 20036

Case No. 610050

Dear Mr. Safire:

This is to respond to your request of January 14, 1976, under the Freedom of Information Act, for "information from transcripts of telephone conversations now in the custody of Mr. Lawrence S. Eagleburger of the State Department."

Your letter specifically refers to telephone conversations that Dr. Kissinger participated in between January 21, 1969, and February 12, 1971, and requests two categories of materials:

1. "all transcripts (including rough drafts, if such exist) in which my name appears."
2. "all transcripts (including rough drafts, if such exist) of conversations between Mr. Kissinger and General Haig, or Mr. Kissinger and Attorney General John Mitchell, or Mr. Kissinger and J. Edgar Hoover, or Mr. Kissinger and any other official of the FBI, or Mr. Kissinger and President Richard M. Nixon in which the subject of 'leaks' of information was discussed."

We have consulted with the Office of the Legal Adviser concerning your letter. That office has been authorized to review the documents that appear to be covered by your request, for the purpose of determining whether such documents are subject to the Freedom of Information Act. It has advised us of the following:

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1. Although your request describes the documents as "transcripts," this description is not entirely accurate. As described in Secretary Kissinger's Responses to Interrogatories in the Halperin litigation, to which your request refers, the documents range from brief and incomplete summaries to detailed or paraphrased accounts of telephone conversations. The documents are in rough draft form and never have been reviewed for accuracy. Your request has been treated as referring to this group of documents.
2. The documents are not subject to the Freedom of Information Act. Both because of the nature of the documents and because of Dr. Kissinger's position at the time the documents were made, they are not records of the Department of State or of any other "agency" and, thus, are not "agency records" within the meaning of the Freedom of Information Act.
3. Even if the documents in question were considered to be "agency records" within the meaning of the Act, they would appear to fall clearly within Exemption 5 of that Act. In addition, other specific statutory exemptions, notably Exemption 1, would be applicable, as would claims of invasion of privacy.
4. Beside falling outside the purview of the Freedom of Information Act, the documents are not contained in any file which is retrievable or indexed by any name or identifying symbol or code; therefore, they are not subject to disclosure under the Privacy Act, 5 U.S.C. 552a.
5. Since this letter is not a denial of a "record" under section 6.6(b) of the Department of State's Freedom of Information regulations (copy attached), the appeal provisions of those regulations (section 6.8) are not technically applicable. However, if you wish to bring additional considerations to the Department's attention or to have a further review made of your request, you may address a letter to the

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Assistant Secretary of State for Public Affairs,  
Chairman, Council on Classification Policy,  
Department of State, Washington, D. C., 20520.  
Matters presented in such a letter would be  
given prompt and complete consideration.

Sincerely,

Barbara Ennis  
Director  
Freedom of Information Staff  
Bureau of Public Affairs

Attachment:  
Department of State Freedom  
of Information Regulations



P760 014 0612

The Washington Star

DEPARTMENT OF STATE

225 Virginia Avenue, S.E.

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Washington, D.C. 20061

BUREAU OF  
PUBLIC AFFAIRS  
FREEDOM OF INFO. STAFF

Re 610139

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January 16, 1976

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ACTION  
is assigned to

PA/FOI

Dr. Henry A. Kissinger  
Secretary of State  
State Department  
Washington, D. C. 20520

Dear Dr. Kissinger:

This is a request under the Freedom of Information Act for all transcripts and summaries now in files of the Department of State of your telephone conversations with President Richard M. Nixon.

It is my understanding that these transcripts and summaries are now in the custody of Mr. Lawrence Eagleburger.

This is of current news interest, so please reply as soon as possible. This is in the public interest so I request that the documents be provided without charge.

Yours truly,  
*Norman Kempster*  
Norman Kempster

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Tab. 4

§ 2107. Material accepted for deposit.

When the Administrator of General Services considers it to be in the public interest he may accept for deposit—

(1) the papers and other historical materials of a President or former President of the United States, or other official or former official of the Government, and other papers relating to and contemporary with a President or former President of the United States, subject to restrictions agreeable to the Administrator as to their use; and

(2) documents, including motion-picture films, still pictures, and sound recordings, from private sources that are appropriate for preservation by the Government as evidence of its organization, functions, policies, decisions, procedures, and transactions.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

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§ 2103. Acceptance of records for historical preservation.

When it appears to the Administrator of General Services to be in the public interest, he may—

(1) accept for deposit with the National Archives of the United States the records of a Federal agency or of the Congress determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government;

(2) direct and effect the transfer to the National Archives of the United States of records of a Federal agency that have been in existence for more than fifty years and determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government, unless the head of the agency which has custody of them certifies in writing to the Administrator that they must be retained in his custody for use in the conduct of the regular current business of the agency;

(3) direct and effect, with the approval of the head of the originating agency, or if the existence of the agency has been terminated, then with the approval of his successor in function, if any, the transfer of records deposited or approved for deposit with the National Archives of the United States to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and

(4) transfer materials from private sources authorized to be received by the Administrator by section 3106 of this title.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

§ 2104. Responsibility for custody, use, and withdrawal of records.

The Administrator of General Services shall be responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Administrator, the Archivist of the United States, and to the employees of the General Services Administration, respectively. When the head of an agency states in writing restrictions that appear to him to be necessary or desirable in the public interest on the use or examination of records being considered for transfer from his custody to the Administrator, the Administrator shall impose the restrictions on the records so transferred, and may not remove or relax the restrictions without the concurrence in writing of the head of the agency from which the material was transferred, or of his successor in function, if any. Statutory and other restrictions referred to in this section shall remain in force until the records have been in existence for fifty years unless the Administrator by order determines as to specific bodies of records that the restrictions shall remain in force for a longer period. Restriction on the use or examination of records deposited with the National Archives of the United States imposed by section 3 of the National Archives Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Administrator with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

Tab 5

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(2) direct and effect the transfer to the National Archives of the United States of records of a Federal agency that have been in existence for more than fifty years and determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government, unless the head of the agency which has custody of them certifies in writing to the Administrator that they must be retained in his custody for use in the conduct of the regular current business of the agency;

(3) direct and effect, with the approval of the head of the originating agency, or if the existence of the agency has been terminated, then with the approval of his successor in function, if any, the transfer of records deposited or approved for deposit with the National Archives of the United States to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and

(4) transfer materials from private sources authorized to be received by the Administrator by section 3106 of this title.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

§ 2104. Responsibility for custody, use, and withdrawal of records.

The Administrator of General Services shall be responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Administrator, the Archivist of the United States, and to the employees of the General Services Administration, respectively. When the head of an agency states in writing restrictions that appear to him to be necessary or desirable in the public interest on the use or examination of records being considered for transfer from his custody to the Administrator, the Administrator shall impose the restrictions on the records so transferred, and may not remove or relax the restrictions without the concurrence in writing of the head of the agency from which the material was transferred, or of his successor in function, if any. Statutory and other restrictions referred to in this section shall remain in force until the records have been in existence for fifty years unless the Administrator by order determines as to specific bodies of records that the restrictions shall remain in force for a longer period. Restriction on the use or examination of records deposited with the National Archives of the United States imposed by section 3 of the National Archives Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Administrator with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

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