



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

B-181244

The Honorable Jacob K. Javits
United States Senate

Dear Senator Javits:

This report is in response to your request of July 22, 1974, for information on the source and authority for President Nixon's gift of a helicopter to President Sadat of Egypt.

Shortly after President Nixon returned from the trip, several Members of Congress asked us to inquire into various aspects of the helicopter gift and some asked that we inquire into certain other gifts. Many of the questions asked were similar in nature, so we have consolidated all the information obtained for each requestor into an overall summary (app. I) which is being released to all requestors simultaneously.

We have concluded that under provisions of the Foreign Assistance Act of 1961, as amended, President Nixon had the legislative authority to give the helicopter to the Arab Republic of Egypt and to grant \$10 million of U.S.-owned excess Egyptian currency to an Egyptian charity. Although the helicopter gift under the act's contingency fund provision was legal, the gift was apparently contrary to the intention of the sponsor of that provision. Modifications in the language of an amendment to the act made the intent of the Congress less clear regarding the purposes for which the contingency fund may be used. Should the Congress wish to prohibit or restrict these actions in the future, it should amend the language in the act to better clarify legislative intent.

We are also providing you with a list (app. II) which, according to the Department of State, represents all other gifts given during the June 1974 trip. At the request of

B-181244

State, the list does not reflect the names of the recipients nor the countries in which the gifts were given. To date, State has not provided us with the value of the gifts because of the confidentiality of the funding source.

At the request of some recipients of this report, we did not follow our usual policy of obtaining formal written comments from the Departments of State and Defense and the Agency for International Development. However, we have discussed the contents of the report with appropriate officials and considered their comments in preparing this report.

We do not plan to publicly announce the contents of this report unless you or another of the congressional recipients agree to its release or publicly announce its contents.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Thomas P. Mitchell". The signature is written in a cursive style and is positioned to the right of the typed name.

Comptroller General
of the United States

SUMMARY OF INFORMATION ON GIFTS GIVEN BY
PRESIDENT AND MRS. NIXON DURING
JUNE 1974 VISIT TO MIDDLE EAST AND EUROPE
AND

DONATION OF U.S.-OWNED LOCAL CURRENCY TO EGYPTIAN CHARITY

President and Mrs. Nixon made official state visits to five Middle East and two European countries from June 10 to June 19, 1974.

<u>Country</u>	<u>Dates</u>
Republic of Austria	June 10 to 12
Arab Republic of Egypt	June 12 to 14
Saudi Arabia	June 14 to 15
Syrian Arab Republic	June 15 to 16
State of Israel	June 16 to 17
The Hashemite Kingdom of Jordan	June 17 to 18
Portugal	June 18 to 19

President Nixon during his trip gave a number of gifts to individuals and organizations. Most were given as a matter of protocol and two large gifts were given to enhance the improved U.S. relations in the Middle East. These were in addition to the formal agreements to provide U.S. assistance. We were advised by Department of State officials that:

- President Nixon offered to President Anwar Sadat of Egypt one of the helicopters that he used on his trip.
- President and Mrs. Nixon gave 76 gifts of a small personal nature to foreign dignitaries or organizations and U.S. Embassy hosts.
- On March 7, 1974, 3 months before the state visit, President Nixon authorized a \$10-million grant of U.S.-owned excess Egyptian currency to an Egyptian charity.

State officials also advised us that the value of the helicopter and related support, spare parts, and training was \$3 million. We have been unable to obtain from State the cost data for the 76 personal gifts.

GIFT OF HELICOPTER

President Nixon and President Sadat traveled from Alexandria to Cairo, Egypt, in a VH-3A helicopter assigned to White House duty. We understand it was during this trip that President Nixon offered the helicopter as a gift to President Sadat to solidify the improving relationship between the United States and Egypt. The provision of the helicopter would also obviously enhance President Sadat's personal security.

On August 11, 1974, the transfer of the helicopter was officially made with the passing of the title from the U.S. Government to the Government of the Arab Republic of Egypt. From the date of the gift in June until August 11, the helicopter remained at an Egyptian military base near Cairo.

According to the Department of Defense, the helicopter was one of eight manufactured by Sikorsky Aircraft Corporation and sold to the U.S. Navy in 1962 at a unit cost of about \$1.6 million. The helicopters were originally designed for anti-submarine warfare duty, but were designated for Presidential duty while still in the manufacturing stage at Sikorsky. As a result, they were air conditioned, sound proofed, and configured so that they could be dismantled and transported in cargo planes. Modification costs, according to Defense, amounted to an additional \$158,000 per aircraft.

Two additional helicopters were subsequently modified and made available for Presidential use, for a total Presidential fleet of 10 helicopters. One helicopter was destroyed in a crash near the Bahamas in May 1973; five are located at Quantico, Virginia, assigned to Marine Helicopter Squadron One; and three are at Fort Belvoir, Virginia, assigned to the Army Executive Flight Detachment.

The VH-3A helicopters are expected to be replaced by new models in 1975. During hearings before the House Committee on Armed Services in 1972, the Navy requested authorization for six VH-3D executive transport helicopters to replace the VH-3A. Navy officials advised us that negotiations are underway to purchase a total of 11 VH-3D helicopters. The Navy estimates that it would cost about \$3.2 million to replace the VH-3A helicopter today. The program cost of the new VH-3D helicopter is estimated at \$3.9 million each, including spare parts. The Navy stated that the VH-3A helicopters would reach the end of their Presidential mission service life during calendar year 1975, at which time they will be transferred to fleet support squadrons for their remaining service life.

Legislative authorities considered

The gift of the helicopter caused considerable concern to executive branch officials because, after the offer was made by the President, they became responsible for determining the legal authority and funding for the transaction. During their search for an appropriate legal authority and funds for the gift, several authorities and appropriations were considered but each had some disadvantages and some were clearly inappropriate under the circumstances.

- Military Assistance Program (MAP) section of the Foreign Assistance Act. Because Egypt is ineligible for this program without a Presidential determination and notification to the Congress, its use was considered inappropriate.
- Secretary of Defense contingency fund. This fund, which amounted to \$5 million in fiscal year 1974, may be used for emergencies and extraordinary expenses arising in the Department of Defense. Expenditures from the fund may be made on the approval or authority of the Secretary of Defense and accounted for solely on his certificate that they are necessary for confidential military purposes. Officials determined that the use of this fund was also inappropriate.
- Department of State fund for "Emergencies in the Diplomatic and Consular Service." This fund may be used for unforeseen emergencies arising in that service. Personal-type gifts to foreign dignitaries are often paid from this fund and handled through State's Chief of Protocol. However, State's annual budget of about \$2 million for such emergencies was insufficient to fund the helicopter and its associated costs, which ultimately amounted to the total of \$3 million. Therefore, to use this fund, State would first have to submit another request and justification to the Congress for an increase of about \$3 million in the fund ceiling. State did not believe such a request to the Congress was appropriate at the time.
- Section 531 of the Foreign Assistance Act of 1961, as amended, for Security Supporting Assistance, is administered by the Agency for International Development (AID). This section gives the President broad authority to furnish assistance to friendly countries, organizations, and bodies to promote economic or political stability. However, section 114 of the Foreign Assistance and Related Programs Appropriation

APPENDIX I

Act of 1974 requires that a notification of 5 days be given to the House and Senate Appropriations Committees before the funds may be obligated. Although executive branch officials believed that the use of Security Supporting Assistance funds for this purpose was legal, they were reluctant to do so for political reasons and because of the need to provide the advance notification.

Section 451 of the Foreign Assistance Act (22 U.S.C. 2261) authorizes the establishment of a contingency fund which may be used for emergency situations, but primarily for disaster relief purposes. Although executive branch officials believed that transferring the helicopter under section 451 would be stretching the intent of the law, they concluded that the contingency fund could be used for any urgent and unforeseen purpose. The officials specifically noted that, in their opinion, section 451 requires only that the assistance afforded be primarily for disaster relief.

An advantage to using section 451 of the act is that its use does not require any notification to the Congress prior to the use of funds. To use sections 451 or 531, requires a waiver of section 620 (p) of the act which prohibits the furnishing of assistance under the act to Egypt. The President can waive this prohibition by making a determination that such assistance is essential to the national interest of the United States and will neither directly nor indirectly assist aggressive actions by the United Arab Republic.

On July 18, 1974, the Executive Office of the President announced that the helicopter would be provided to Egypt under authority of section 451. The Department of State informed us that the gift would be valued at about \$3 million and consist of \$560,000 as the amortized value of the helicopter, based on a 20-year life. The gift would also include \$2.4 million for spare parts, support equipment and tools, and training for pilots and mechanics. A determination was also made at that time that the U.S. Navy would be reimbursed in the amount of \$560,000 rather than the original cost of \$1.6 million.

On July 31, 1974, the Deputy Secretary of State, under authority of Executive Order 10973, made the national interest determination required by section 620 (p) of the act.

GAO evaluation of authority selected

On July 18, 1974, officials of the Executive Office of the President decided to fund the helicopter under the AID

APPENDIX I

contingency fund, section 451 of the Foreign Assistance Act, as amended.

Historically, the contingency fund, as conceived by the executive branch in 1961, was to

"be used to meet requirements which were tentative or unforeseen at the time of the congressional presentation, for assistance in accordance with other aid authorities, such as development loans, development grants, investment surveys, contributions to international organizations, and supporting assistance, beyond the amounts programed or made available for these categories."

In 1973 the Senate Appropriations Committee, in reporting out the foreign aid appropriation, set three restrictions for use of the contingency fund--that the need be "urgent, unforeseen or * * * determined by the President to be important to the national interest." Senator Eagleton, taking issue with the executive branch position that the fund be used for situations involving U.S. security interests, stressed that "it is the collective judgment of both Congress and the President [which] best serves to define what is in the national interest."

Before fiscal year 1974, the contingency fund had been used, in addition to disaster assistance, for such expenditures as a Bahama livestock research and development project, payment of a claim to a private U.S. contractor, and the \$7.2 million U.S. contribution to the International Commission for Control and Supervision in Vietnam in fiscal year 1973.

Parallels have been drawn between the helicopter grant and the contribution to the International Commission. Both are said to reflect a judgment that assistance, unforeseen at the time of budget submission and having nothing to do with relief from natural or manmade disasters, was necessary to preserve the possibility of peaceful solutions to war-related crises. The contribution to the International Commission from the contingency fund did not meet with the approval of Senator Eagleton, who stated:

"It is clear from the nature of these items that, outside the disaster relief category, many of the grants made with section 451 money were made in areas which should have been anticipated in the annual budget request. Others, such as our contribution to the International Commission established by the Paris Peace Agreement, should have been of sufficient import to warrant submission of a request

to Congress for funding by special supplemental legislation. And still other grants could have clearly awaited congressional approval during routine consideration of the following-year aid bill." (119 Cong. Rec. S 18373.) (Underscoring supplied.)

It was in response to these nondisaster expenditures that the contingency fund authorization was modified in 1973 by the so-called Eagleton Amendment (sec. 10 of the Foreign Assistance Act of 1973, Public Law 93-189). Section 451 (a) of the act now provides:

"(a) There is authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 not to exceed \$30,000,000 to provide assistance authorized by this part primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance." (Underscoring supplied.) 1/

It is the Department of State's position that the fund may be used for any urgent and unforeseen purpose, noting that section 451 requires only that the assistance afforded under that section be primarily for disaster relief.

Plainly, the statute, in employing the word "primarily," does contemplate that some assistance may be furnished under the contingency fund for purposes other than disaster relief. What is not clear from the face of the statute, however, is what restrictions, if any, have been placed under the "secondarily" allowable uses for the fund.

The original amendment provided funds "only" for disaster relief. After introduction of the amendment, Senator Eagleton asked that it be modified so that the funds could be used "primarily" for disaster relief, and not "only" for that purpose. Nevertheless, he endeavored to make clear that the money was to be used only for "unforeseen catastrophes," which may be classified as crises, disasters, or emergencies. Most important, the fund was not to be charged with items that could have been provided for under another section of foreign assistance legislation, as was shown in the Congressional Record of October 2, 1973.

1/ Fiscal year 1974 appropriations (Public Law 93-240), approved Jan. 2, 1974, were \$15 million in lieu of \$30 million.

"MR. EAGLETON. As a part of the legislative history of this amendment, which now reads 'primarily' in lieu of 'only', can I be assured by the distinguished Senator from Minnesota that next year when this bill is working its way through the legislative process, that with his usual diligent attention the Senator will focus on this fund to make sure the expenditures were primarily for disaster or crises-related situations? I want to be absolutely sure that this fund is not siphoned off for items that could have been provided for in other portions of the AID bill-----that the money will be used for unforeseen catastrophes."

"MR. HUMPHREY. Mr. President, I concur wholeheartedly. I hope the administrator of this program, when he uses any contingency fund assets, will report it immediately to the appropriate committees of the Congress so that we have an idea what is going on and so we will know this fund is not used for anything other than emergencies. We have funds for development in several categories in this bill, with funding provided in the contingency fund for the kind of things that are unpredictable, that come up and have to be handled promptly by the Secretary of State or the AID administrator."

"MR. EAGLETON. And of a crisis, disaster, or emergency-type situation?"

"MR. HUMPHREY. The Senator is correct.
(Underscorings supplied.)

Concerned that the fund has been used for nonemergency situations in the past, Senator Eagleton stressed that the contingency fund should no longer be regarded as a "slush fund" and that his amendment aimed at correcting that situation.

"As we seek, therefore, to reassert congressional control over the processes of government, an open-ended 'slush fund' seems a vastly inappropriate part of our foreign aid program. The amendment I propose today seeks to correct that incongruous situation.

"* * * a contingency fund created primarily as a means of responding to natural disasters should not be used to express a commitment of the

United States no matter how worthy the policy considerations might appear. What might seem to be a worthy use of the contingency fund today could too easily be an abuse tomorrow.

"My purpose in introducing this amendment is to protect our ability to respond adequately and expeditiously to disasters. Misuse of this fund in a manner which seems to circumvent the legislative process can only detract from its principal purpose--that of enabling America to move quickly in relief of those suffering the consequences of catastrophe."

AID, in an internal memorandum dated March 12, 1974, concluded that the contingency fund as amended by the Eagleton amendment was available

"for any AID purpose, in addition to disaster relief, where the requirement is urgent and unforeseen, including circumstances where the purpose is important to national security. However, in non-disaster situations, the Contingency Fund should be used only in exceptional circumstances where important interests are involved and where other funding sources can be shown to be clearly not available." (Underscoring supplied.)

Conclusion

Apparently, Senator Eagleton wished to restrict the contingency fund to uses that reasonably cannot be met under any other assistance program account and that must be triggered by events over which one has no control and could not foresee. However, on its face the statute does not limit the use of the contingency fund except to the extent that it be used primarily for disaster relief purposes. Any restrictions on the secondary uses of this fund that may have been intended by the drafters of the legislative language is not reflected on the face of the statute.

Moreover, the word "primarily" in that part of the statute limiting funds for uses "primarily for disaster relief" does not describe sufficiently the degree to which nondisaster use of the fund is permitted. Senator Eagleton noted with concern that during fiscal year 1973 "only one-half of the total expenditures from the contingency fund were spent on disaster relief." Clearly, more than one-half the funds must be used in disaster relief to be in compliance with the restriction that the fund be used "primarily" for

APPENDIX I

that purpose, but how much more than one-half of the appropriation must be so expended to achieve compliance with the intent of the statute is not specified. We, therefore, have no criteria for determining whether this expenditure for the helicopter was or was not within that restriction.

In view of the ambiguity concerning the uses to which the fund may be applied and the degree to which the fund may be used exclusively for disaster relief, we cannot conclude that the charge to the contingency fund account for the gift of the helicopter contravenes the letter of the law, although it apparently runs contrary to the intent of the amendment as envisioned by its sponsor. Therefore, should the Congress wish to prohibit or restrict these actions in the future, it should amend the language in the act to better clarify legislative intent.

OTHER GIFTS

We learned from Department of State officials that the President and Mrs. Nixon gave a total of 76 gifts of a small personal nature to various dignitaries and organizations in most of the countries visited. The two gifts to President and Mrs. Sadat reasonably typify the gifts listed.

1. Presidential set of "Winslow Homer" plates consisting of six limited-edition, filigreed-gilt-bordered plates centered with color reproductions of the masterworks of Winslow Homer with Presidential inscriptions in gilt on reverse, in custom-made velvet-lined mahogany presentation case. These plates, which cost \$195, were given to President Sadat.
2. Elaborate silver epergne/centerpiece with five arms which can hold either candles and/or crystal bowl inserts. The centerpiece, which cost \$205, was presented to Mrs. Sadat.

State officials told us that this type of gift (except those that were donated and had no costs to the United States) was authorized and paid for from State's appropriation entitled "Emergencies in the Diplomatic and Consular Service." In fiscal year 1974, the appropriation provides

"For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of section 291 of the Revised Statutes (31 U.S.C. 107), \$2,100,000."
(Public Law 93-162.)

State advised us that the Secretary of State authorized these gifts by using certification procedures set out by statute (31 U.S.C. 107) whereby he can refuse to disclose the purpose of any expenditure from that appropriation. Under section 291 of the revised statutes (31 U.S.C. 107) GAO has no review authority over expenditures from this appropriation. Accordingly, we were unable to obtain cost data for the 76 personal gifts.

State did give us a list of the gifts (see app. II) and their recipients. However, it requested that neither the recipients' names or countries in which the gifts were given be included in a public document because of diplomatic considerations.

DONATION OF U.S.-OWNED LOCAL CURRENCY
TO AN EGYPTIAN CHARITY

On March 7, 1974, President Nixon authorized a grant not to exceed \$10 million in U.S.-owned excess Egyptian currency to the Wafaa wa'l Amal (Loyalty and Hope Society) for a medical and rehabilitation center that will provide treatment for Egyptian military and civilian personnel and for other Arabs. Mrs. Sadat is the driving force behind the project and chairman of the society.

The question of a possible grant came up during the Secretary of State's visit to Egypt in January 1974. The decision to proceed with the Presidential determination was made following his return and after legal aspects had been reviewed. The gift was based upon the positive humanitarian and psychological impact the contribution would have on the people and leaders of Egypt.

On January 30, 1974, at a meeting between a general of the Egyptian army medical corps and U.S. officials at the U.S. Interests Section in Cairo, plans for the society's medical and rehabilitation center project were discussed. According to a message from the U.S. Interests Section, the Egyptian general hoped some U.S. assistance would be given to help in constructing a medical center and acquiring medical equipment. The following facilities are planned for the center.

1. Trauma center--to receive injured patients and perform emergency surgery.
2. Medical and rehabilitation center--for physiotherapy and occupational, sociological, and psychological therapy.

APPENDIX I

3. Prosthetic workshop and walking school--to provide artificial limbs and appliances.
4. Vocational workshops--to provide vocational assessment and training, if the patient cannot return to his former job.
5. Housing facilities--for patients and their families. Should a patient, because of serious physical or emotional disability, be unable to live at home, he and his family will be provided accomodation where they may reside indefinitely.

Secretary of State notified Mrs. Sadat of the grant on March 1, 1974, and requested that the society give our Ambassador in Cairo copies of any annual or special reports it may publish indicating the use of the funds granted.

Legal authority of grant to the charity

The grant was made pursuant to section 614 (a) of the Foreign Assistance Act (22 U.S.C. 2364), the pertinent portions of which provide that:

"The President may authorize * * * the use of not to exceed \$100,000,000 of foreign currency accruing under this Act or any other law without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 * * *, in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States." (Underscoring supplied.)

The President, in his March 7 memorandum, determined that the grant to Wafaa wa'l Amal "is important to the security of the United States."

In considering this section of the Foreign Assistance Act of 1961, the House Foreign Affairs Committee stated:

"The purpose is, primarily, to make possible the use of such currencies for humanitarian purposes in countries where substantial amounts of foreign currencies have been or are being deposited for U.S. use. The object is to permit the initiation

APPENDIX I

of projects which will contribute directly and immediately to alleviating the living and working conditions of the people." 1/

Conclusion

At the request of a Member of Congress, we reviewed the legal aspects of the grant to the Wafaa wa'l Amal and our report (B-156766, Sept. 19, 1974) concluded that the grant to the society may reasonably be considered to further one or more of the purposes referred to in section 614 (a) of the Foreign Assistance Act. With reference to the importance of the grant to the security of the United States, section 614 (a) by its terms requires only that the President in fact make a determination to this effect--which he did--and, in any event, no limits or criteria are imposed concerning the President's exercise of discretion in this regard. Accordingly, we cannot question the validity of the Presidential determination that this grant is "important to the security of the United States." Therefore, we believe that President Nixon's grant of \$10 million of U.S.-owned Egyptian currency to the society was within the authority accorded to him under section 614 (a) of the act.

1/ H. Rept. 851, 87th Cong., 1st Sess. 71 (1961).

APPENDIX II

GIFTS GIVEN BY PRESIDENT AND/OR MRS. NIXON

DURING TRIP TO MIDDLE EAST IN JUNE 1974 (note a)

<u>Description</u>	<u>Number</u>
Presidential set of six "Winslow Homer" plates in velvet-lined mahogany case	6
Reed & Barton silver epergne/centerpiece	6
Bulova accutron gilt bronze clock with enameled presidential seal	6
Gorham floral "Apricot Oval" 9" x 9"	6
George Washington silver plate etched in vermeil in fitted velvet-lined booklike case (note b)	6
General Analine Viewmaster in walnut presentation case with Presidential seal	6
pair of Boehm bird plates, 1972 & 1973 "Mountain Bluebird" and "Meadowlark"	6
presidential music box with contemporary tunes	5
Tiffany silver presentation box with Presidential seal, lined in velvet	5
Boehm porcelain sculpture "Orchid Centerpiece"	2
Pickard china scalloped-edge bowl with etched gold decoration	1
Pair of Pickard china scalloped shell design dishes with etched gold decoration	1
Pickard china circular tray with etched gold decoration	1
Boehm porcelain medium-size sculpture of "Indigo Bunting"	1
Boehm porcelain medium-size sculpture of "Prothonotary Warbler"	1
Franklin Mint coin set--50 miniature silver medallions of 50 States	1
Steuben crystal "Calyx" bowl	1
Steuben "Spiral" vase	1
White and gold child-size reproduction of Early American rocking chair	1
Boehm porcelain medium-size sculpture of "Verdins"	1
Pewter plate with etched American eagle	1
Compote-shaped bowl with stars and Presidential seal	1
Steuben "Cubed Sphere"	1
Bicentennial Commission blue and gold bordered white plate, centered with two American eagles in gold	1
Silver cordial set consisting of six "Jefferson" design miniature cups and a round tray in presentation case	1

APPENDIX II

<u>Description</u>	<u>Number</u>
Lenox centerpiece bowl and pair of candlesticks	1
Hand-carved and painted life-size cardinal bird on natural branch with Presidential seal on base	1
porcelain statue of the Biblical Queen Esther, 10" tall	1
Steuben crystal "Caryatid" vase	1
Tiffany silver urn--reproduction of 18th century American design with Presidential seal	1
Boehm "Birds of Peace" plate	1
Boehm porcelain medium-size sculpture "Black- Capped Chickadee"	1

a/ Gifts of a small personal nature, exclusive of the heli-
copter package and a \$10 million grant of U.S.-owned excess
Egyptian currency.

b/ Plate is White House Historical Association-authorized.