Department of Energy
Washington, DC 20585

May 4, 2018

The Honorable Mike Simpson
Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Simpson:

In 2017, the Department of Energy (DOE) performed renovations at the James Forrestal Building as part of our ongoing efforts to maintain and operate the facility. Subsequently, the Government Accountability Office (GAO) issued an opinion[1] that creates ambiguity in contrast to the Department's longtime understanding and practices regarding changes to the spaces assigned to Presidential appointees. In the interest of transparency, this letter serves to inform you of the recent renovations and the Department's concerns related to the GAO's opinion.

Section 710 of the Financial Services and General Government Appropriations Act, 2017 requires that agencies notify the Committees on Appropriations of the Senate and the House of Representatives before obligating or expending more than $5,000, "to furnish or redecorate the office of [a Presidential appointee] or to purchase furniture or make improvements for any such office." Historically, DOE has understood this provision to apply to redecorating, refurnishing, and similar expenses made to accommodate changes by a Presidential appointee (e.g., replacing carpet or painting walls a different color). It was not to apply to costs, such as routine maintenance, replacing or repairing items that were at the end of their lifetime from normal wear and tear (i.e., painting over scuffed walls, fixing holes in drywall, replacing frayed carpet), health and safety improvements, security requirements, or the provision of basic equipment (e.g., computers, printers).

On April 16, 2018, a GAO opinion expanded the scope of this provision to apply to virtually any expense associated with a Presidential appointee's office space, including the provision of any furnishings whatsoever, as well as the costs of any maintenance activities (which, by its definition, would constitute an "improvement" of the space).

Prior to the new GAO interpretation, the Department performed renovations throughout the James Forrestal Building, including staff areas. The Department's Office of Management Administration originally calculated costs based on redecorating and refurnishing a Presidential appointee's immediate office and any adjoining rooms that were primarily dedicated to the Presidential appointee's use. These expenditures were reviewed and approved under long-standing Department procedures consistent with the law. However, this new GAO opinion has introduced ambiguity as to what expenditures require Congressional notification.

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[1] B-329603 (Apr. 16, 2018).

Under DOE's longstanding understanding of Section 710, less than $5,000 was expended for each of these appointees and the notification requirement was not triggered. The Secretary's office was refurnished in the amount of $4,652. The Refurnishing of the Deputy Secretary's office totaled $4,993. The Department is providing a list of renovations that have occurred in the James Forrestal Building since January 20, 2017, such as construction, repairs, renovations, asbestos abatement, HVAC repairs, re-carpeting, and electrical work. The Department is also providing examples of similar renovations made during the previous administration, demonstrating the Department's ongoing efforts to maintain an aging building, the approval process, and reporting practices have not changed with this administration.

While the Department appreciates and respects the GAO's role, its opinions are not legally binding on Executive Branch agencies. Should you have any questions or concerns, please contact my office.

Sincerely,



Eric J. Fygi
Deputy General Counsel

Enclosures

cc: Marcy Kaptur
Ranking Member

Refurnishing the Secretary's Office

Refurnishing	Cost
Re-Upholstery	
1 Wing Back chair	$857
2 Side Chairs	$760
2 Round back chairs (two different fabrics)	$896
1 Sofa	$1,157
Pick-up and Delivery	$100
Total Cost of Upholstery	**$3,770**
Paint Office	$882
Total	**$4,652**

Refurnishing the Deputy Secretary's Office

Furniture Upholstery	Cost
1 Sofa	$1,179
2 18" x 18" pillows	$154
8 Conference Chairs	$2,680
2 Barrel Chairs	$880
Pick-up and Delivery	$100
Total	**$4,993**

Other Major Projects in the Forrestal Building during this Administration-

- Staff offices: $577K
- Refreshed 4th Floor Conference Room – $100K
- Refreshed Forrestal Auditorium - $43K
- Constructed reception area - $274K
- Constructed dual purpose conference/press room - $99K
- Routine painting (FY17/18 Est.) $650K
- Routine carpeting (FY17/18 Est.) - $800K
- Planned renovation of 1st floor conference room- $750K

Examples of Projects during Previous Administration-

- Built a SCIF for the Secretary near the Horseshoe - $1.2M
- Expanded Horseshoe for S3 and Senior Advisors - $600K
- Replaced Carpet in Horseshoe - $140K
- Renovated/modernized the Program Review Telecommunications Center - $2.7M
- Built an Executive Meeting Room adjacent to the Cafeteria - $400K
- Relocated the NNSA Administrator to a New Executive Suite - $600K
- Renovated NNSA office space - $1.2M
- Constructed Energy Efficiency and Renewable Energy Tele-video Center - $600K
- Constructed new HQ Employee Collaboration Centers - $800K
- Improved cafeteria - $700K
- Renovated the Fitness Center Locker Facility - $500K
- Routine painting (FY16) $550K
- Routine carpeting (FY16) - $330K