United States General Accounting Office
Washington, DC 20548

B-287944

June 1, 2001

The Honorable David S. Addington
Counsel to the Vice President
Office of the Vice President

Subject: GAO's Review of the Development of the Administration's National Energy Policy

Dear Mr. Addington:

This responds to your letter dated May 16, 2001, concerning GAO's review of how the Administration's National Energy Policy was developed, requested by Representatives John D. Dingell and Henry A. Waxman. You questioned whether GAO's review is appropriate, in compliance with the law, and a productive use of resources given the information already provided by the Office of the Vice President.

After consulting with Comptroller General David M.Walker, we have determined that GAO's review of the development of the National Energy Policy is appropriate and required by law. Under 31 U.S.C. § 717, GAO is required to evaluate a program or activity when requested by a congressional committee of jurisdiction. As you are aware, the request is from Representative Dingell, Ranking Minority Member of the Committee on Energy and Commerce, and Representative Waxman, Ranking Minority Member of the Committee on Government Reform. We are also conducting the review under 31 U.S.C. § 712, which authorizes GAO to investigate all matters related to the use of public money. GAO's broad statutory right of access to records, set out in 31 U.S.C. § 716(a), covers the requested information, documents and records supporting our review.

In your letter, you express concern that GAO may "intrude into the heart of Executive deliberations." It is clear that GAO's access authority under 31 U.S.C. § 716 extends to deliberative process information. The principal legislative history explaining section 716 states that the "mere fact that materials sought are subject to ... [deliberative process] and therefore exempt from public disclosure does not justify withholding them from the Comptroller General." Sen. Rep. No. 96-570, at 7-8 (1980). However, in this particular engagement, we are not inquiring into the deliberative process but are focused on gathering factual information regarding the process of developing President Bush's National Energy Policy. This information includes who served as staff to the President's National Energy Policy Development

Group (NEPDG), who provided information to the NEPDG either directly or through staff, what information was provided, and the costs involved in developing the National Energy Policy. Contrary to the assertion in your letter, we are not at this time requesting an interview with the Vice President or cabinet officials. We do seek interviews with the Executive Director of the NEPDG and other officials involved in the NEPDG process.

We appreciate the information already provided by the Office of the Vice President to the committees, and we plan to use it in connection with our review. However, we need additional information and dialog to complete our review of the energy policy development process. For example, we need additional information regarding the individuals involved in the NEPDG, the nature, purpose, and attendees in connection with meetings, the division of responsibilities between NEPDG principals and staff, and relevant cost information. To facilitate the provision of this information in an efficient manner, we would like to arrange an initial meeting with you and the Executive Director of the NEPDG as soon as possible to discuss the timing and scope of our review. As a guide to our discussion, we have enclosed a list of initial questions that take into account the information already provided. The prompt reply of your office is appreciated.

If you have any questions about GAO's authority, please call me or Susan Poling, Associate General Counsel, at (202) 512-5400. If you have any questions about the scope and nature of the information we need for this engagement, please call Robert A. Robinson, Managing Director, Natural Resources and Environment, at (202) 512-3841. Thank you for your cooperation in this matter.

Sincerely yours,

Anthony H. Gamboa
General Counsel

Enclosure

cc: Mr. Andrew D. Lundquist

Chairman and Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Chairman and Ranking Minority Member
Committee on Government Reform
House of Representatives

ENCLOSURE

We have reviewed your May 4, 2001, response to the Chairmen and Ranking Minority Members, Committee on Energy and Commerce, and Committee on Government Reform, House of Representatives. At our initial meeting with you and the Executive Director of the NEPDG, we would like to discuss our remaining questions and the most efficient way of obtaining the information. Initially, we would like to focus on the following:

1. Previously, you identified 9 meetings conducted by the NEPDG and indicated that each meeting was held in the White House Complex. For each meeting, we want to learn the name of each attendee, title, and office represented, as well as the duration of the meeting.

2. Previously, you stated that 6 professional staff, referred to as the Group support staff, were assigned to the Office of the Vice President for the purpose of supporting the NEPDG. We want to learn their name, title, office or employer represented; the date on which that person began working for that office; and their responsibilities.

3. Previously, you indicated that various members of the Group support staff met with many individuals to gather information relevant to the NEPDG work. For each interview or meeting, we want to establish (a) its date and location, (b) the persons met with, including their name, title, and office or clients represented, (c) its purpose and agenda, (d) the information presented, (e) whether minutes or notes were kept, and (f) how members of the NEPDG or Group support staff determined who would be invited to the interviews or meetings.

4. We are interested in learning whether the Vice President met with individuals to gather information relevant to the NEPDG and, if so, we want to obtain the same information listed in question 3 above.

5. We are interested in obtaining the direct and indirect costs incurred by both the Vice President and the Group support staff.

After discussing these questions with you, we would also like to arrange meetings with members of the Group support staff to discuss meetings they conducted and the process they used to develop information in support of the task force.