

# Nixon Estate May Be Paid For Papers

*Plan Calls for Move  
To California Library*

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The U.S. government would pay the estate of former president Richard Nixon \$26 million in compensation for his White House papers and records under a proposed settlement that marks the latest chapter in the tortuous history of the Watergate tapes.

Under the still-tentative agreement, details of which were confirmed by both government sources and those close to the Nixon family, the estate has agreed to turn over to the National Archives control of the privately run Nixon library in Yorba Linda, Calif. All the materials seized by the government as Nixon attempted to spirit them from the White House following his resignation in 1974 will be shipped to California as well.

The Richard Nixon Library and Birthplace Foundation would use part of the payment, reportedly about \$8 million, to build a new facility to house the huge collection of more than 44 million items. The partially underground structure would be built to the Archives' specifications on the nine-acre Yorba Linda property. The Nixon collection is now held in the National Archives annex in College Park.

The agreement leaves unchanged the complex network of rules and timetables governing and restricting the public's access to the materials.

The proposed settlement would bring the Nixon library, which opened in 1990 with the unique distinction of having no original presidential documents, in line with other presidential libraries around the country. Although all of them are run by the National Archives, they also usually function as image-polish-

See NIXON, A14, Col. 3

NIXON, From A1

ing institutions for their presidents and bear the personal stamps of the chief executives whose collections they house.

That is precisely what disturbs critics of this plan, both in and out of government. They contend that public access to the materials would be diminished by the arrangement even as public funds are being spent to pay for them. They point out that presidential libraries are heavily influenced by the desires of the former presidents and their families and devoted to enhancing their reputations. The "smoking gun" tape that forced Nixon's resignation, for instance, was heavily edited when it was played for visitors at the opening of the Nixon library in 1990.

"This is unconscionable," University of Indiana historian Joan Hoff, a longtime student of Nixon's records, said of the plan. "If this goes through, I think you'll see a firestorm from the academic community." She said she wasn't against paying the Nixon estate for the records, but she strenuously opposes moving them to California.

Archivist of the United States John Carlin is said by officials familiar with the proposal to be in favor of it, arguing that it would open the door to a "new partnership" in place of contentious litigation.

Previous presidents such as Lyndon Johnson and presidential families such as John F. Kennedy's laid down restrictions on collections. Kennedy's family reserved the right to limit access to materials in the Kennedy library and the right to unilaterally withhold anything they chose. Johnson reserved for himself the power to select the documents that would be included in his library as well as the right to restrict access to certain materials.

No modern-day president has been directly paid for his papers, although some have taken sizable tax deductions for their donations.

The proposal to pay for Nixon's records stems from a 1992 ruling by the U.S. Court of Appeals here that he, "like every other President before him, had a compensable property interest in his presidential papers." The exact amount was to be determined by a lower court judge. While some think the papers are valuable, others such as University of Wisconsin historian Stanley Kutler say the collection is worth little when the cost of extracting the historically significant portions is considered.

Under a 1974 law enacted "to provide the public with the full truth" about Watergate "at the earliest reasonable date," Congress prescribed that the papers be kept in the metropolitan Washington area.

Despite that mandate, lawsuits and objections from Nixon and his lawyers kept archivists from processing and making public more than a small fraction of Nixon's records, even those related to Watergate, for more than 20 years. Only about 7 million documents and 264 hours of tapes are currently available for public research.

A ruling in federal district court this week underscored the difficulties and raised the question of what the \$26 million would pay for. U.S. District Judge Norma Holloway Johnson ordered that the Archives return "all personal and private conversations" on Nixon's tapes "and any copies thereof" to the Nixon estate, along with all portions of a 27,000-page log summarizing those conversations. They cover 819 hours. Johnson said the 1974 law entitled Nixon to "sole custody."

Government archivists, however, say the tapes are too fragile to be cut and spliced to extract the personal material, and that they might be forced to surrender all 3,700 hours of tapes as well as a master copy to the Nixon estate.

Nixon's will specifies that most of the compensation is to be passed directly from his estate to the Richard Nixon Library and Birthplace Foundation after his family is reimbursed for the millions of dollars in legal fees incurred in 23 years of litigation over the ownership, public disclosure and value of the Nixon papers and tapes.

Nixon lawyer R. Stan Mortenson said he was "not in a position to confirm or not to confirm" any of the major points of the proposed settlement. He suggested there were inaccuracies, but declined to be more specific.

Just when the proposed settlement could take effect remains unclear. Though some Nixon sources say it could be finalized by the end of April, others were far more guarded, citing bitter divisions between Nixon family members and trustees of the Nixon Foundation.

"This thing could still blow up," said one source, "and none of the negotiators on either side wants that to happen."

One of the major stumbling blocks has been the Nixon family's fear that the former president's estate—valued at little more than \$2 million—

might be liable for inheritance taxes on the entire \$26 million received in the settlement even though much of that will end up in the nonprofit Nixon foundation.

The estate has requested a ruling on that issue from the Internal Revenue Service but had not received one at last report, according to both

Nixon and government sources.

The Presidential Records Act of 1978 made the records of future presidents, starting with Ronald Reagan, public property, but it also allows the former presidents to impose extensive restrictions on what can actually be made public, especially while they are still alive.