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Senate Hearings

Before the Committee on Appropriations

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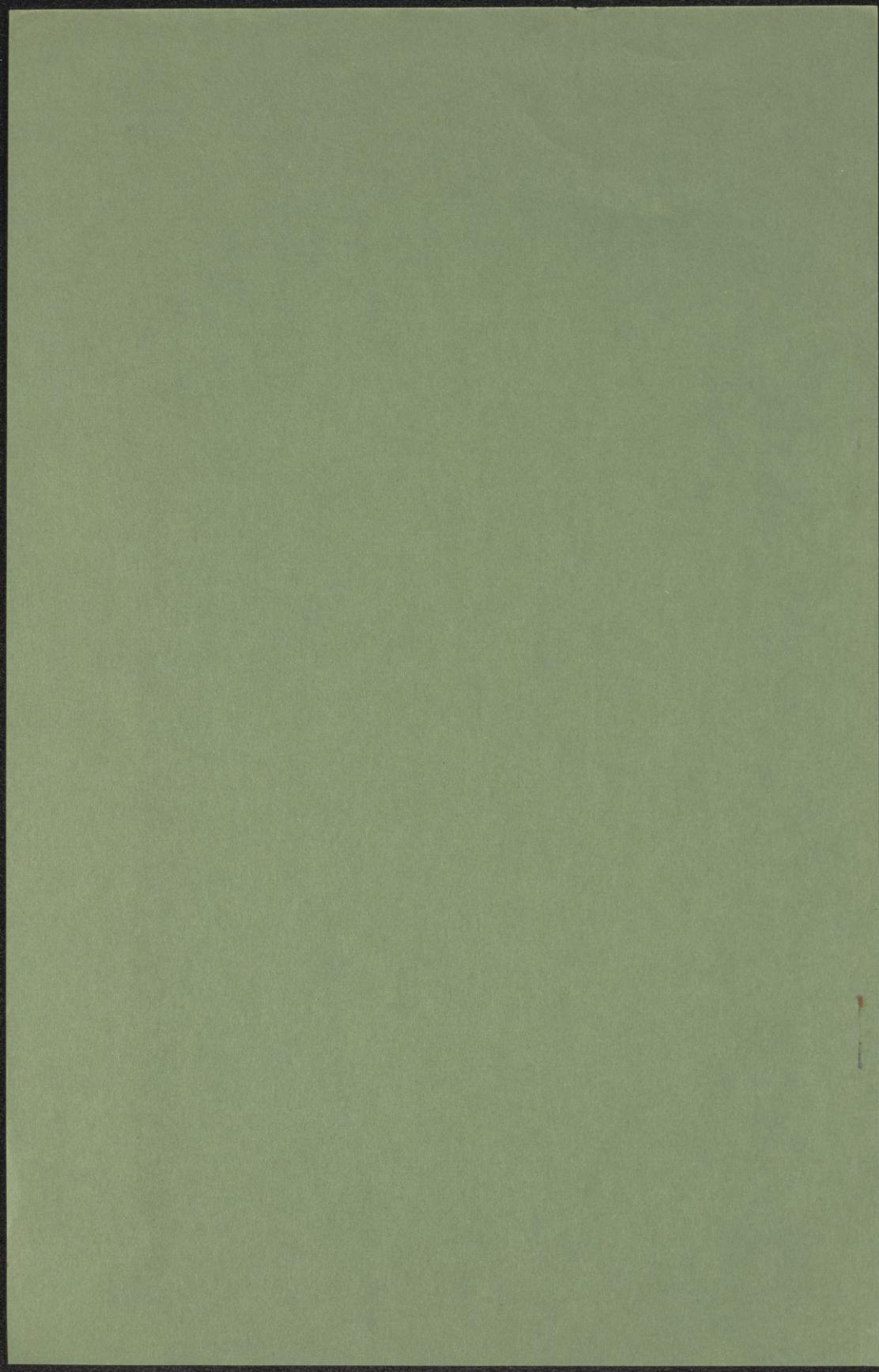
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Special Hearing



PUBLIC WORKS EMPLOYMENT APPROPRIATIONS ACT

HEARINGS BEFORE SUBCOMMITTEES OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

H.R. 15194

AN ACT MAKING APPROPRIATIONS FOR PUBLIC WORKS
EMPLOYMENT FOR THE PERIOD ENDING SEPTEMBER 30,
1977, AND FOR OTHER PURPOSES

Printed for the use of the Committee on Appropriations

SPECIAL HEARING



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WASHINGTON : 1976

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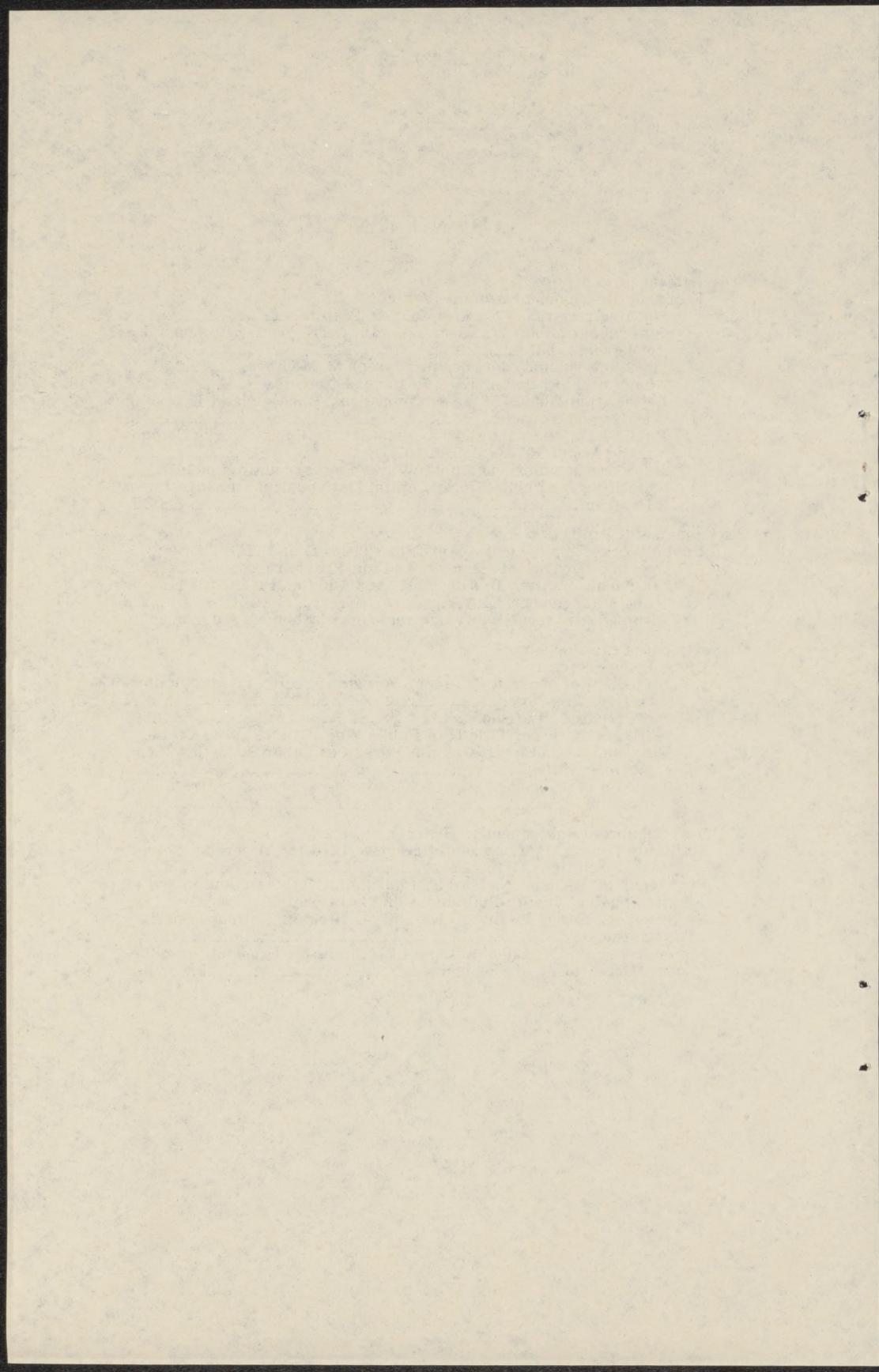
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DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

WEDNESDAY, AUGUST 25, 1976

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 1:45 p.m., in room S-128, The Capitol,
Hon. John O. Pastore (chairman) presiding.
Present: Senators Pastore, Huddleston, and Hruska.

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

**STATEMENT OF JOHN W. EDEN, ASSISTANT SECRETARY FOR
ECONOMIC DEVELOPMENT**

ACCOMPANIED BY:

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ANTHONY SULVETTA, CHIEF, PROGRAM ANALYSIS DIVISION

OPENING REMARKS OF SENATOR PASTORE

Senator PASTORE. This hearing will come to order.

The purpose of this meeting is to review the planning and funding requirements necessary to implement title I of the Public Works Employment Act of 1976. This legislation authorizes the appropriation of \$2 billion for construction of local public works.

Last July, the President vetoed this legislation.

On July 21, the Senate overrode the veto by a vote of 73 to 24.

On July 22, the House overrode the veto by a vote of 310 to 96, and thus the legislation was enacted into public law.

On August 12, the House Appropriations Committee reported H.R. 15194, the Public Works Employment Appropriations Act. The full House of Representatives is acting on the matter, as I understand, today.

The bill, as reported by the House Appropriations Committee, includes the full authorization of \$2 billion to implement title I of the act relating to construction of local public works projects. The program is to be administered by the Secretary of Commerce, through the Economic Development Administration.

Title I authorizes funding for public works projects through these programs as follows:

DIRECT GRANT PROGRAM

No. 1. The Direct Grant Program. This program provides 100 percent Federal funding for construction, renovation, repair or other improvement of local public works projects, including projects for which Federal financial assistance is authorized under provisions of law other than Public Law 94-369.

SUPPLEMENTAL GRANT PROGRAM

No. 2. Supplemental Grant Program. This program provides grants for the purpose of increasing the Federal matching share of any federally assisted project to 100 percent where such Federal assistance is immediately available, but construction has not been initiated because of a lack of funding for the non-Federal share.

AUTHORIZED BY STATE OR LOCAL LAW

No. 3. Grants for projects authorized by State or local law. This program provides grants for all or any portion of the State or local share of any public works project authorized by any State or local law. But such a grant may not provide both, that is, the State and local shares.

With respect to program administration, the Secretary of Commerce must prescribe rules and regulations within 30 days of enactment of this law. I understand these rules were promulgated last Monday. In addition, applications for funding must be acted on within 60 days of receipt. Applications must show that if approved, onsite labor can begin within 90 days.

Our witness today is the Assistant Secretary of Commerce, Mr. John Eden.

STATEMENT OF JOHN W. EDEN

Mr. EDEN. Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the proposed appropriation for title I of the recently enacted Public Works Employment Act of 1976.

REASONS FOR THE VETO

I feel it is important at the outset to mention that in his veto message of July 6, the President highlighted four major points which he felt were important reasons for not signing the bill.

First was a basic disagreement with the estimated job creation, 325,000 v. 160,000, as estimated by the administration.

Second, he stated that the impact would come primarily in late 1977 and 1978, at a time when the economy would be far into a recovery stage.

Third, the cost per job appeared to be extremely high.

And fourth, the bill would stimulate inflation by increasing the Federal debt and increasing the borrowing needs of the Government.

Nevertheless, the Congress decided that the program should be enacted, and the veto was overridden.

PROVISIONS OF TITLE I

Title I of this law, which is called the Local Public Works Capital Development and Investment Act of 1976, authorizes \$2 billion for grants to State and local governments for public works projects which will stimulate activity in the construction and construction-related industries, and thereby contribute to the reduction of unemployment. The House Appropriations Committee has recommended that the full amount be appropriated.

The act defines eligible projects as those which provide for construction, renovation, repair, or other improvements of a public works nature which have a local orientation.

Since onsite labor should begin within 90 days of project approval, preliminary engineering work must be virtually completed before the project is submitted for funding. However, title I also authorizes funding for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional work of this type is needed to permit construction.

Eligible applicants for these grants are States, local governments, including State political subdivisions, special-purpose governmental units and Indian tribes. First priority and expedited processing will be given to applications submitted from areas having an unemployment rate for the average of the 3 most recent consecutive months—for which data is available at the time of application—that is in excess of the national unemployment rate.

Seventy percent of the funds appropriated for this purpose will be available for projects from these areas. Of the remaining 30 percent, priority must be given to applications from areas experiencing average unemployment rates in excess of 6½ percent but equal to or less than the national rate for the 3 most recent consecutive months for which data is available.

The Congress made provisions in title I for expeditious implementation by requiring that rules, regulations, and procedures, including application forms, be prepared within 30 days of enactment. Additionally, the law provides that after formal acceptance of an application, EDA has 60 days to make a final determination to either approve or deny the project proposal. If after 60 days the applicant has not

been advised of the final determination, the project will be considered approved.

STATUS OF IMPLEMENTATION EFFORTS

I would now like to discuss briefly the status of our implementation efforts. In accordance with the act, regulations for administering the program were published in the Federal Register on Monday, August 23, at which time more detailed program guidelines were also made available.

These regulations and guidelines were developed to achieve the following objectives, which are based on considerations derived from the act and EDA's considerable experience in administering public works programs:

No. 1, to insure that consideration is given to the relative needs of the various sections of the country.

No. 2, within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, also maximize employment opportunities for unemployed residents of the project area.

No. 3, to fund locally-oriented projects that provide useful public facilities in areas of high unemployment and low income.

No. 4, to fund projects that advance local plans and provide long-term benefits.

No. 5, to fund facilities that could not have been constructed in the absence of the local public works grant, that is, facilities for which Federal funds are not merely replacing or reducing local, State or other Federal moneys that have been specifically provided or set aside.

We believe that the approach delineated in the regulations and guidelines will enable us to meet these objectives as equitably and efficiently as possible.

PROJECTS ALREADY FUNDED

Senator PASTORE. On that last one, you make a distinction in those cases when a certain local project was being undertaken by a local community and its local appropriation was already made, but the money not spent, the community couldn't apply for this particular money and not use their own. Is that what you are talking about?

Mr. EDEN. Yes. We are trying to provide for new jobs.

Senator PASTORE. Nothing already approved and funded by local money?

Mr. EDEN. Yes.

Senator PASTORE. And take that local money away and use Federal money instead?

Mr. EDEN. Precisely.

OPERATIONAL ISSUES

In addition to promulgating regulations and guidelines, we have instituted other activities designed to insure that EDA will be in a position to implement the program expeditiously and effectively should funds become available.

Senator PASTORE. Would you pause there? We have a vote going on. Let's run up.

It will only take about 3 or 4 minutes; give you a chance to catch your breath.

[A brief recess was taken.]

Mr. EDEN. I will proceed, Mr. Chairman, starting with the last paragraph of my prepared statement.

Senator PASTORE. "During this week . . ."

Mr. EDEN. During this week, each of EDA's six regional offices is being visited by a group of key headquarters staff for the purpose of discussing in depth the procedures which have been developed to implement this legislation. A task force has also been established to address the numerous operational issues related to EDA's administration of the program.

EDA will not accept applications until funds are appropriated and apportioned to the agency.

Senator PASTORE. How long might that be? Once appropriated, how long do you think it will take to apportion them, or is that outside your province?

Mr. EDEN. I can only give you an estimate.

NEED FOR PROMPT RELEASE OF FUNDS

Senator PASTORE. I would certainly hope, if we appropriate the money, there won't be an intention on the part of the administration to hold up the money or delay it. All of this legislation, as you have already pointed out, is subject to certain provisions inserted in the law in order to expedite the usage of the money.

Now, the administration, in its view, took the position this money couldn't be spent until 1977 or 1978. Of course, we disagree with that. I quite agree with you; I quite agree with you that we have to be pretty careful what we do. But, on the other hand, do it as soon as possible, because after all, that was the intent of the Congress.

If the President signs the appropriation, that would be his intent as well. He didn't feel it should be done and he vetoed the authorizing legislation, and it was overridden by a substantial vote. I hope you won't use gimmicks to hold it up.

I am speaking now of my own State. I know what this money would do for Rhode Island. So many things need to be done. We have a high level of unemployment. It isn't as bad today as several years ago, but still much above the national average, no question about it. If we didn't have EDA money, the tragedy of pulling the Navy out of Quonset Point and Newport would be even more serious. We were able to do a few other things only because we had EDA money.

Mr. EDEN. We are proud of our record in Rhode Island, Mr. Chairman.

I know of no effort that will be made to hold back or restrict our going forward as expeditiously as possible in carrying out this program.

We might say, we had superb cooperation within the administration in promulgating the regulations within 30 days.

Senator PASTORE. I must say, you did a wonderful job, you and your predecessor as well.

LOAN GUARANTEE FOR THE BILTMORE HOTEL

On existing EDA money, you have an application for the Biltmore Hotel. Where does that loan stand?

Mr. EDEN. We have signed a letter of intent to proceed with our portion of the Biltmore Hotel project. We look on it as a very unique opportunity for us. I think there were 325 jobs involved in that project. People from Providence came and visited with me on it.

Senator PASTORE. I will do anything I can do to help, and that goes for the people in the city of Providence, as well.

ADMINISTRATIVE CHALLENGE OF PROGRAM

Mr. EDEN. Our economic development representatives in the various States will be available to consult with potential applicants and to transmit applications to our regional offices, but will not be authorized to accept applications.

Finally, I would like to mention the administrative challenge which we face in implementing this program. It is not our intent to use this new program as an opportunity to hire additional permanent staff for EDA. We plan to use our present employees as much as possible; however, we will have to hire some temporary staff to assist them.

Since our regular program of long-term economic development is so different from this new program, we are unable to use our experience to predict the rate of application submissions. If, in fact, there exists a backlog of projects which meet the title I criteria, we expect to be faced with the processing of a large number of applications within the first 60 days after funds are appropriated and apportioned.

In order to be prepared for this possibility, we will need to hire staff or obtain contractual services quickly because of the tight deadline which the law places on project review. We would probably be able to phase out some of the new staff and/or the contractual services during the latter part of the fiscal year.

Some of the staff would have to remain after September 30, 1977, in order to monitor project construction. We estimate that we may need to hire approximately 300 temporary employees. This will be accomplished as rapidly as possible.

Thank you, Mr. Chairman. This concludes my statement. I will be glad to answer any questions which you may have.

Senator PASTORE. Senator Hruska?

TIMING OF DISBURSEMENT

Senator HRUSKA. When do you estimate these funds will actually be disbursed to the local communities?

Mr. EDEN. If funds are apportioned by early October, the time constraints on approval and construction startup time would suggest that there would be some disbursements early in calendar year 1977 with a strong upswing in activity shortly thereafter. We expect as much as 40 percent of the outlays for this program to occur in fiscal year 1977.

EMPLOYMENT GENERATED

Senator HRUSKA. How much employment do you estimate this program will generate?

Mr. EDEN. The administration has estimated 160,000 jobs; other estimates range to 325,000. We would hope to be able to exceed the base estimates.

Senator HRUSKA. When?

Mr. EDEN. Employment should start in early 1977 and reach a peak later in the year.

Senator HRUSKA. How will EDA implement the program so as to maximize employment in the construction industry?

Mr. EDEN. One of the major objectives of the program as stated in the guidelines is to maximize employment opportunities. To make sure that this consideration is emphasized, the project selection formula places a 30-percent weighting on the cost per man month of employment factor; this of course, is a measure which indicates the labor intensity of a project.

JOB CREATION

Senator HRUSKA. This appropriation will cost our taxpayers \$2 billion. How many jobs will it create at what cost per job?

Mr. EDEN. I can only speak to the \$2 billion for title I. If we assume the creation of a minimum of 160,000 jobs, the cost per job would be about \$12,500. If 200,000 jobs are created, the cost would be \$10,000 per job. If 325,000 jobs were created, the cost would be only a little more than \$6,000 per job.

ADMINISTERING THE PROGRAM

Senator HRUSKA. After reading the rules and regulations published in the Federal Register, it seems that the program will be a nightmare to administer.

How does EDA expect to coordinate the 70/30 allocation; the 65/35 State planning ceilings; review of the applications in the field; certification of unemployment rates; and evaluate environmental impacts and make all the other judgments within the 60-day review period?

Mr. EDEN. We recognize that there is a real administrative challenge here, but it is perhaps not as complicated as it may appear at first.

For example, the State allocation process will be completed before the applications come in. Certification of unemployment also will be done before submission of the application.

With the assistance of temporary employees and some contractor support, we expect to be able to meet the challenge of processing the applications.

VERIFYING CERTIFICATIONS

Senator HRUSKA. How will EDA determine whether all the certifications required by the regulations are correct?

Mr. EDEN. We will accept certifications by the applicant on a number of provisions in the application and fully expect these certifications to be reliable.

ANTICIPATED APPLICATIONS

Senator HRUSKA. It appears from the rules and regulations that by the time all environmentally troublesome projects are eliminated and all those projects that could be constructed with local or State funds are dropped from consideration, there won't be many eligible projects left.

Does EDA have any new estimates of how many applications are expected, and how many of these would meet the selection criteria?

Mr. EDEN. While it is difficult to forecast a precise number, we would expect to receive perhaps 6,000 applications, most of which would meet the selection criteria. If these projects average \$1 million each, we would only be able to fund about one-third of them. This, of course, assumes appropriation of the full \$2 billion.

ENVIRONMENTAL IMPACT STATEMENTS

Senator HRUSKA. During the initial 60-day review-approval period, a favorable environmental impact statement must be obtained.

How often have environmental impact statements been obtained within 60 days?

Mr. EDEN. Senator, we will not be able to prepare full scale environmental impact statements because of the 60-day project processing requirement. We will, to the maximum extent possible, analyze the potential environmental impacts of a project and give consideration to that analysis in the final project selection.

AUTOMATIC APPROVAL OF PROJECTS

Senator HRUSKA. What are your thoughts with respect to an application not processed and approved within 60 days being given automatic approval?

Mr. EDEN. Of course we do not want this to happen. We will make every effort to complete processing of each project to assure its compliance to the regulations within the 60-day limitation.

NEED FOR FISCAL AND MONETARY POLICY CHANGES

Senator HRUSKA. Alice Rivlin, Director of the Congressional Budget Office, recently made the statement that "no further major changes in fiscal or monetary policy are needed for this year."

Do you agree with Ms. Rivlin's remarks with respect to this legislation?

Mr. EDEN. It is my understanding that this program has been considered to be within the overall budget ceiling established by the Congress. I think it is quite possible that this program would not be considered a further change but rather, a change which was already considered.

DUBIOUS PROJECTS

Senator HRUSKA. How will EDA insure that the present project selection procedure would not produce work relief projects of dubious value to local communities?

Mr. EDEN. There are major factors in the scoring system which address this potential problem.

The project selection criteria is heavily weighted to the project area and not to the project in order to insure that the public facilities to be constructed are located in areas of high distress. Seventy percent of the basic rank of a project is based on three factors associated with the project area, only 30 percent to the project.

And to insure that useful public facilities are selected, the project selection process is biased to preplanned projects that are consistent with existing approved plans. The basic score of a project will be increased up to a maximum of 15 percent. This percentage increase will be derived from two considerations, first, that the project exhibits potential for providing long-term benefits, and second, that it relates to existing approved plans and programs.

UNREALISTIC APPLICATIONS

Senator HRUSKA. Can community expectations be dampened to reduce the submission of an unrealistic number of applications of lesser priority?

Mr. EDEN. We can explain the factors which will be used in the selection process. This will aid them in determining priorities, but we could not actively discourage the submission of applications.

RELATIONSHIP TO THE JOB OPPORTUNITIES PROGRAM

Senator HRUSKA. How does the local public works program differ from title X, job opportunities program?

Mr. EDEN. Both have in common the objective of job creation. However, unlike title X, LPWA clearly intends to construct useful public facilities. We believe EDA's rules and regulations and guidelines accomplish both objectives.

DELAY IN PROCESSING APPLICATIONS

Senator PASTORE. It's my feeling, based upon previous experience, that you are going to be deluged with applications, no question about it. And while \$2 billion sounds big, the fact still remains there are serious problems. As a matter of fact, unemployment is a little higher this July than it was last May.

There seems to be a feeling on the part of some that chances are that the economy will begin to show signs of improvement. I hope they are right. But I don't see that improvement coming so fast that we don't need to help some people that are unemployed.

Now, in the construction industry I understand the unemployment rate is over 17 percent. And our level of unemployment now is 7.8 percent on a national average. In my own State, Rhode Island, it is above 10 percent. This is not a healthy sign.

The reason why I am saying this, I am stating it exactly as a predicate to the question. Why do you have to wait until the money is allocated and appropriated?

Mr. EDEN. We are anxious to be as fair and objective as we possibly can be. Therefore, it would seem to us, if we have 1 day on which we start receiving applications, that will give all communities an opportunity to be there with their applications at the same time.

If we were to indicate now that we would be accepting some, these would be ahead of the others. The law calls for us to make

a decision on applications within a 60-day period of time. We think it is most fair that 60 days start at the same time for everyone—

Senator PASTORE. What you are actually telling me, if you began taking applications now even though the money is not appropriated, your 60 days would begin to run?

Mr. EDEN. Yes, sir.

Senator PASTORE. So in order to avert that, you think everything should be in order before you start—like shooting off the gun to start the race?

Mr. EDEN. Exactly, sir.

Senator PASTORE. That makes sense to me. You have answered my question.

You want to say something?

Senator HUDDLESTON. I have a few questions.

PRINTING OF REGULATIONS AND GUIDELINES

You mentioned that the regulations have been filed in the Register. Have they been separately printed, and are they being disseminated to localities in any way?

Mr. EDEN. They are disseminated in the Federal Register, and we are preparing additional copies for dissemination in our offices. They will be ready in a couple of days.

Senator HUDDLESTON. And you will have agents in the field consulting with local communities or with the States?

Mr. EDEN. Yes. Our economic development representatives will have copies of the regulations as well as the guidelines along with the application form.

Senator HUDDLESTON. So, the fact that we don't now know just when the 60-day period is going to start running doesn't preclude a locality from going ahead and preparing its application and having it ready to submit?

Mr. EDEN. That is correct. We will announce the date on which we will start accepting applications, and we will announce that well in advance of that date, probably, approximately a week beforehand so that interested communities will have an opportunity to firm up their applications and get them in.

UNEMPLOYMENT STATISTICS

Senator HUDDLESTON. It occurs to me there may be some problems with the unemployment data. For example, let's consider the 3-month period. Is that the 3 months immediately preceding the filing of the application or the last 3 months before enactment or what?

Mr. EDEN. It's the most recent 3-month period for which data is available preceding the date we receive the application.

Senator HUDDLESTON. And, Bureau of Labor Statistics will be used, is that correct?

Mr. EDEN. Yes.

Senator HUDDLESTON. Are these available in every instance—at both the State and local levels?

Mr. EDEN. We will be announcing a number of counties for which we have unemployment data from the previous 3 months. If the appli-

cant is from a local community that is other than a county and for which BLS data are not available, we will ask them for State certification of the unemployment level for their location.

Senator HUDDLESTON. So localities will have an opportunity to submit data which, of course, they would have to certify and verify?

Mr. EDEN. Yes.

Senator HUDDLESTON. What about an area in a moving unemployment situation, going from lower unemployment, to higher unemployment. If you average the 3 months together you would give them a lower figure than if they could in some way emphasize a trend that is well established toward greater unemployment? Is there any way that could be considered?

Mr. EDEN. I don't think there is, Senator. The act is very specific on the 3-month period of time. One thing they could probably do is delay their application.

Senator HUDDLESTON. If they had an emergency situation where they, for instance, lost a plant and had a big unemployment impact all of a sudden, there is no way to accommodate that kind of situation?

Mr. EDEN. There really isn't other than the fact it is an average of the previous 3 months, so the recent change would have an effect.

APPLICATION BACKLOG IN EDA

Senator PASTORE. Let me ask you this question: We do now have an EDA program, do we not, and you do have a backlog, do you not?

Mr. EDEN. Yes, sir.

Senator PASTORE. We have more applications in now than there is money available; isn't that correct?

Mr. EDEN. That is correct, sir for public works projects.

Senator PASTORE. Now they are coming around with this new one, \$2 billion. We are talking about new applications. If a community has already submitted an application, but because of the tremendous backlog you have because of the lack of funds, what would be their situation?

I am thinking now about a project in Rhode Island, the OIC, for instance, which is doing a marvelous job. Would they have to file a new application? Would any of those old applications be considered? What would be their status?

NEED FOR NEW APPLICATIONS

Mr. EDEN. The procedure would be that they would file a new application. This application form is somewhat different from the normal application.

Senator PASTORE. And come under the criteria and guidelines you stipulated?

Mr. EDEN. Quite right, sir. One of the basic differences might well be the requirement under this act, that a project must be capable of generating onsite construction within 90 days of the granting of the application.

Senator PASTORE. I know; I realize that.

Mr. EDEN. Many of our regular projects are not that way. That would be one criterion where the same application might not be suitable for both our public works program and this program.

UNOBLIGATED FUNDS

Senator PASTORE. How much money do you have now in your shop that hasn't been committed?

Mr. EDEN. We are in the transition quarter now.

Mr. HENKEL. We have \$41 million for the transition quarter. I think we have approved \$21 million as of today. We have a sufficient backlog for the remaining funds for the transition quarter, plus a backlog for the new fiscal year.

Senator PASTORE. How big is the backlog?

Mr. EDEN. Right now, I think it is probably about \$20 to \$30 million.

AVAILABLE OF LOCAL PUBLIC WORKS FUNDS FOR REGULAR EDA PROJECTS

Senator PASTORE. And those can file for the new program if they come within the criteria?

Mr. HENKEL. Under our regular program, Senator, we approve projects on preliminary design specifications, on the theory that after we approve, then you can start the engineering. I would say many of our projects right now in the pipeline could not come up with the final plans and specifications to allow them to begin construction within the 90-day period.

Senator HUDDLESTON. You do have grants available in this program, though, to help finalize those plans as quickly as possible so they might qualify; is that correct?

Mr. EDEN. Yes, sir, that is correct. There is provision in this for engineering and architectural work.

INITIATION OF CONSTRUCTION WITHIN 90 DAYS

Senator Huddleston. Is there any kind of arrangement to accommodate a situation where there was a true emergency of some type that prevented the construction from beginning in 90 days? What is the penalty if an area is not able to begin in 90 days?

Mr. EDEN. Because of weather conditions, for instance, particularly in the Northeast or the northern part of the country, I feel we are going to have to be understanding and somewhat liberal in our judgment of what constitutes onsite construction in that 90-day period. It quite obviously wouldn't mean full production at full employment.

It must mean the actual getting underway of a job to the extent that a number of people are employed. I think we will have to be somewhat understanding.

Senator PASTORE. Will the law give you the latitude?

Mr. EDEN. I think the exact phrase is—I would like to read it because it does give it to us.

Senator PASTORE. Be generous with yourself.

Mr. EDEN. Senator, it says work is capable of beginning. It doesn't say it has to begin.

Specifically, it indicates it has to be at the point where it could begin.

That is correct, sir. If funds are available, onsite labor can begin within 90 days of project approval.

Senator PASTORE. God forbid if we had another hurricane; for that reason you couldn't get started. I wouldn't want 90 days to run out on me.

UNEMPLOYMENT STATISTICS

Senator HUDDLESTON. Back to the unemployment figure again, some States—Kentucky is one of them—don't seasonally adjust their State-collected unemployment figures. Is there some way to accommodate this situation? We may have high employment during the tourist season, for instance, and lower employment later on. Agriculture employment during the summer and whatnot. Is there any way for a seasonally adjusted figure here?

Mr. EDEN. I don't know of any provision that would make that possible, Senator Huddleston.

Senator HUDDLESTON. I think it is flexible enough if the communities are able to supply acceptable data where it is not otherwise available.

Mr. HENKEL. It is our understanding that the Bureau of Labor Statistics does not have seasonally adjusted data.

ALLOCATION OF FUNDS

Senator HUDDLESTON. Talking about regional cases, do you have a formula for these types of allocations?

Mr. EDEN. We have a formula with which to allocate portions of the money to each State, but not regions within the States. We feel that, again, the most equitable way to approach this problem is to make a State allocation. Our regional offices will work within those States in the allocation of funds.

ENVIRONMENTAL IMPACT STATEMENT

Senator HUDDLESTON. What about the environmental impact statement? Are you going to give us any help on that?

Mr. EDEN. The law requires that we adhere to the environmental requirements that we normally have for the public works program.

Obviously, having to make a judgment within 60 days on a project, we don't have the capability to prepare the usual environmental impact statement. So we will have to make an environmental judgment about the environmental quality of a project early on in our evaluation and simply live with that. Those that might be environmentally marginal, we will just not be able to undertake.

Senator HUDDLESTON. That could present a considerable handicap, couldn't it, to the local applicant?

Mr. EDEN. I agree, sir.

NEED FOR RAPID ACTION

Senator PASTORE. So as it stands now, we better come up with the money real fast, and you people better apportion it real fast, and we better get going. Isn't that about the size of it?

Mr. EDEN. Yes, sir. OMB is going to have to apportion it pretty fast because, as you stated earlier, and quite aptly, the number of applications we are going to receive is going to be extensive.

And within the 60-day period, we are going to have to make a decision on the \$2 billion of best projects.

Senator HUDDLESTON. It makes it incumbent on the applicant to get the application in unless you have a system of allocating so much at a time, because the most worthy projects might come in after the money is allocated.

Mr. EDEN. I think you are quite right.

Senator HUDDLESTON. You are under the gun and can't wait.

Mr. EDEN. We feel we will probably be making \$2 billion worth of decisions early.

Senator HUDDLESTON. Virtually, 60 days.

Mr. EDEN. Part of the instructions to us in the law is to employ as many people as quickly as possible.

Senator HUDDLESTON. But it really reduces your ability to weigh one project against the other, or those coming in late, because you have to make the decisions 60 days after the first one comes in.

Mr. EDEN. You are quite right, sir. And this is one of the reasons we developed the criteria for judging the projects that are evidenced in the regulations and the guidelines.

As you point out, we do not have the capability in this legislation to be able to work with and evaluate a project as we normally do. EDA's normal funding for public works projects is about—well, the last 2 years has been \$166 million. This new bill provides \$2 billion on top of that. Normally, that \$166 million is something we work over after we have a chance to work with the local community.

UNEMPLOYMENT RATES

Senator HUDDLESTON. Going back to an earlier question, what 3-month period is being used to determine the unemployment rate—April, May, and June, or what?

Mr. EDEN. We would use the most recent period of 3 consecutive months for which data was available for that project area at the time of application. The period would be different depending on when the application is submitted, and what data is available for the project area.

UNEMPLOYMENT ABOVE NATIONAL AVERAGE

Senator HUDDLESTON. Does EDA now have a list of those areas with unemployment above the national average, and which, thereby, fall into the 70-percent category, and above the 6.5-percent level which fall into the 30-percent category? If so, please supply. If not, when will they be available?

Mr. EDEN. This list is being made available to our regional offices so that they may advise localities of eligibility. We expect them to have this material by the middle of next week.

We plan to update this listing monthly.

EDA SOURCE OF UNEMPLOYMENT DATA

Senator HUDDLESTON. What is EDA's source of unemployment data?

Mr. EDEN. We will rely primarily on BLS statistics but will also accept State employment data if the BLS data is not available.

Senator HUDDLESTON. Your regulations on page 5 seem to suggest that States and localities cannot question the data base being used or submit data of their own if they are in an area for which BLS

has figures. I had understood that localities would be able to submit additional data. What is the policy?

Mr. EDEN. If BLS data is available, it prevails, except when a locality within a jurisdiction to which the BLS data applies, chooses to use State agency data. BLS data must be used if the project area is a jurisdiction which is on the BLS list.

Senator HUDDLESTON. How can additional data be submitted?

Mr. EDEN. The applicant would obtain statistics from the State employment security agency and include the data as part of the application.

Senator HUDDLESTON. When will localities be able to do this? Will they be given sufficient time so as not to prejudice their applications?

Mr. EDEN. They could begin immediately to check on the availability of the data or to generate data when it is not available.

Senator HUDDLESTON. What kinds of data will be acceptable from localities?

Mr. EDEN. BLS has directed the State employment security agencies to cooperate with localities in generating data where it is not already available in the basic BLS listings.

Senator HUDDLESTON. In cases where State employment or other agencies collect data, will localities still be allowed to submit their own data or question the data being used?

Mr. EDEN. The data will have to come from BLS or the States, with the exception of Indian reservations which may supply the data directly.

Senator HUDDLESTON. What data will be acceptable for indicating how an applicant might draw on unemployed persons in adjoining areas?

Mr. EDEN. Applicants may define their project area to include the full area from which they expect to draw employees to work on that project.

Senator HUDDLESTON. What criteria will be used to determine whether or not a neighborhood qualifies, and who will make that determination?

Mr. EDEN. An applicant may further define a neighborhood within a jurisdiction and EDA would consider this valid so long as the unemployment data is certified by the State.

Senator HUDDLESTON. As we discussed, some States, including Kentucky, do not seasonally adjust State-collected unemployment figures. Do you know how many States this is true for?

Mr. EDEN. I do not know how many States do this. However, all data supplied to BLS for use in CETA and other Federal programs is raw data which has not been seasonally adjusted.

Senator HUDDLESTON. Have you made any administrative arrangements to adjust for this so that you will not penalize tourist and agricultural States which have low unemployment during summer months but a very high rate for the rest of the year?

Mr. EDEN. Since projects within a State will be competing with other projects within that State, we feel the impact of seasonality on the distribution of projects within a State would be minimized. There are no plans to make adjustments for seasonality in determining the State allocations because BLS does not have such data.

ALLOCATION OF FUNDS

Senator HUDDLESTON. In your regulations, you propose a regional allocation for funds. Would you explain your formula for these funds?

Mr. EDEN. We are utilizing a State allocation formula. Within the statutory limitations, 65 percent of the funds appropriated will be allocated to the States based on their share of the national unemployment; the remaining 35 percent will be allocated on the basis of the relative severity of the States' unemployment.

Senator HUDDLESTON. Until title X, there was a very uneven sub-State distribution of funds. What do you propose to do in implementing this act to assure a balanced, equitable sub-State distribution of funds?

Mr. EDEN. We feel fairly certain that the various factors in the selection formula will tend to balance the distribution of projects within the States between their urban and rural areas and among the various parts of the State where unemployment is a significant problem.

UNEMPLOYMENT RATES

Senator HUDDLESTON. Section 108(c) of title I of the Public Works Employment Act of 1976, states in part:

Information regarding unemployment rates may be furnished either by the Federal Government, or by States, or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

What are you doing and what form will the assistance take?

DETERMINING UNEMPLOYMENT RATES

Mr. EDEN. The States will be working with the localities.

Senator HUDDLESTON. Will it be through EDA grants or Bureau of Labor Statistics personnel being assigned?

Mr. EDEN. There will be no EDA grants for this purpose; all activity will be by BLS and the States.

QUESTIONS SUBMITTED BY SENATOR MONTOYA

Senator PASTORE. We have some questions here from Senator Montoya, which we would like to have answered for the record.

[The questions and answers follow:]

QUESTIONS SUBMITTED BY SENATOR MONTOYA

PROBLEMS WITH TITLE X PROGRAM

Question. Mr. Eden, I'm sure your colleagues at EDA told you of the fiasco we had with the title X program. There were massive numbers of applications—nearly 10,000 the second round, I believe. There was an apparent lack of restraint by many communities in applying, with the result that expectations were generated that were not fulfilled.

Almost no local government got a project funded that was its highest priority, thanks to a dubious formula system. For every project approved 8 to 10 were rejected.

We criticized the formula and the administration of the program. We found it impersonal, mechanistic insofar as the prominent role in project selection by the computer. It did not reflect the wishes of the authorizing committees in Congress.

Your regulations show you have again come up with a ranking system or weighting system. Projects will be competing between themselves—within each State—but without any prioritizing by local officials.

We see many of the dangers in your approach that were experienced in the title X program. What is your comment?

Answer. We cannot agree that the problems encountered with the title X program were as severe as is indicated by the question. By and large, we feel that an equitable and well considered distribution of the funds was made.

It is important to note that there is a significant degree of judgment to be applied in the selection process especially in regard to the potential long term benefits of the project and the environmental considerations associated with each application. We do feel that the computer must be used because of the large volume of applications which we expect to receive and the short time allowed for processing.

CAPACITY TO HANDLE RECEIVED PROJECTS

Question. Aside from the legal restrictions in the act, what method have you established to prevent thousands of applications from being submitted that will exceed by far your funding capacity or staff capability to process them in a limited time frame?

Answer. We are not aware of restrictions in the act which would prevent large numbers of projects from coming in, nor do we feel there is any way in which we could discourage the submission of large numbers of applications. We are confident that the number of projects received will not exceed our capacity to process them although we do recognize that we are facing a significant challenge, in terms of workload.

VOLUME OF APPLICANTS

Question. I know that you got 10,000 applications during title X's second round. And that was with limited information and short turn around time to prepare applications. Presently there is plenty of time to get our information and plenty of time to prepare applications. Local governments have been looking for this program for the better part of the past 2 years. Is it not entirely possible that you could receive as many as 100,000 applications?

Answer. While it is theoretically possible that we would see that many applications, it seems unlikely that the actual volume would approach 100,000. For one thing it will be widely known fairly early how many projects are being received. It would then become apparent to those who might be in the early stages of project development that the funds would be gone by the time they could submit their final application.

DISTRIBUTION OF STATE APPLICATIONS

Question. If you get 40 high ranking applications from the city of Chicago that would consume most of the Illinois allocation, how could you fund other down-State projects? I think your system as it stands permits that possibility.

Answer. It is possible that a great number of projects could come in from one section of a State, and if there were no other projects from other sections, they could absorb the total allocation. It is also theoretically possible that they could outrank projects from other areas of the State, but this seems unlikely because of the balance of factors used in the selection process.

SUB-STATE ALLOCATION SYSTEM

Question. Can you not set up some kind of sub-State allocation system?

Answer. We have decided not to go beyond the State level in making the allocations. Having issued the regulations and guidelines it would not be appropriate to do so at this point.

PRIORITIES DETERMINED BY LOCAL AUTHORITIES

Question. Can you not set up a system where local authorities can tell you their priorities?

Answer. The local communities will be aware after they have reviewed the regulations and guidelines what the objectives and requirements of the program are. Hopefully this will lead them to select what might be termed priority projects.

DISTRIBUTION OF REGULATIONS

Senator PASTORE. I have some further questions on procedures. Mr. Eden, would you please tell us how the program regulations have been distributed?

Mr. EDEN. We have distributed them to our regional offices and EDR's and to a number of public interest groups. They are of course available on request.

Senator PASTORE. Then you would recommend that a prospective applicant contact one of your regional offices in order to secure a copy of the regulations?

Mr. EDEN. Yes, that would be completely appropriate.

Senator PASTORE. Have copies of the regulations been made available to the States and localities?

Mr. EDEN. They are available through the regional offices and from our EDR's. We have also distributed to interested groups such as the National League of Cities, the National Association of Counties, and the Council of Mayors.

Senator PASTORE. What is the distribution situation with regard to the program guidelines?

Mr. EDEN. We have distributed copies of the guidelines with the regulations.

Senator PASTORE. How are they used vis-a-vis the regulations?

Mr. EDEN. The regulations are necessarily brief and are stated in somewhat technical terms. The guidelines attempt to expand and clarify the information in the regulations.

NAMES OF EDA REGIONAL DIRECTORS

Senator PASTORE. Would you please supply for the record the names and locations of the EDA regional directors?

[The information follows:]

Mr. John E. Corrigan
Regional Director
Atlantic Regional Office
William J. Green, Jr. Fed. Bldg.
600 Arch Street, Room 10424
Philadelphia, Pennsylvania 19106

Mr. James E. Peterson
Regional Director
Midwestern Regional Office
32 West Randolph Street, Rm. 1025
Chicago, Illinois 60601

Mr. Charles E. Oxley
Regional Director
Southeastern Regional Office
Suite 700
1365 Peachtree Street, N.E.
Atlanta, Georgia 30309

Mr. C. Mark Smith
Regional Director
Western Regional Office
Lake Union Bldg, Suite 500
1700 West Lake Ave., North
Seattle, Washington 98109

Mr. Craig M. Smith
Regional Director
Rocky Mountain Regional Office
Suite 505, Title Building
909 17th Street
Denver, Colorado 80202

Mr. Joseph B. Swanner
Regional Director
Southwestern Regional Office
American Bank Tower, Suite 600
221 West Sixth Street
Austin, Texas 78701

AVAILABILITY OF APPLICATION FORMS

Senator PASTORE. What about application forms?

Mr. EDEN. The OMB has the application for clearance.

[Note: OMB clearance was obtained subsequent to the hearing, on August 27.]

Senator PASTORE. When will they be ready for distribution?

Mr. EDEN. We hope to have them ready by the end of next week.

Senator PASTORE. What should prospective grantees be doing until the forms become available?

Mr. EDEN. I would recommend that they review the regulations and guidelines thoroughly and that they get in touch with our EDR's or the regional offices to get clarification of any points that they may have questions about.

Senator PASTORE. What kind of data should they be collecting?

Mr. EDEN. They could check with the regional offices and the State agencies to get precise information on unemployment rates and to resolve any problems which might exist in that regard. They could also push ahead to complete their plans and specifications.

PROCESSING OF APPLICATIONS

Senator PASTORE. In your testimony you indicated that the law provides that after formal acceptance of an application, EDA has 60 days to make a final determination to either approve or deny the project proposal. If after 60 days the applicant has not been advised of the final determination, the project will be considered approved.

How will you count the days, working days only, or every calendar day from the date of receipt?

Mr. EDEN. The 60 days will be on the basis of calendar days from receipt of the project.

Senator PASTORE. Who will receive the applications?

Mr. EDEN. Only our regional directors are authorized to accept applications.

Senator PASTORE. What will be the step-by-step procedure in determining whether a particular project will be approved or disapproved?

Mr. EDEN. The projects will be processed through our regional offices to assure eligibility of the applicant and to make certain that the application is in compliance with all the provisions of the act.

The project will then be scored on the basis of the formula stated in the guidelines; this scoring will then lead to a ranking and to final project selection. The step-by-step procedures of how all this will be accomplished are now being worked out.

WORKLOAD MANAGEMENT

Senator PASTORE. What happens if you receive 6,000 project applications in the first week you start accepting applications? How will you be able to sift through all of these and make judgments on whether or not to fund each of these projects within 60 days?

Mr. EDEN. We will have only 60 days for processing. I can only assure you Senator that a maximum effort will be made by our staff. I am relying on their ability and hard work to assure a sound review of each project to determine whether or not the project should be approved.

TITLE X JOBS PROGRAM

Senator PASTORE. Didn't you receive about 18,000 applications under the title X program?

Mr. EDEN. There were an estimated 18,000 projects based on other agency responses to our original survey. We actually received approximately 11,000 applications.

Senator PASTORE. I recollect that there were billions of dollars worth of projects submitted to EDA under the title X jobs program that could not be funded because you ran out of money.

How many of those proposals would qualify under this program?

Mr. EDEN. That is very difficult to say, Senator. Not only are we looking for somewhat different kinds of projects under the new program, but it would seem likely that many of the old title X project proposals would now be out of date.

Senator PASTORE. How does this new program compare with the title X program?

Mr. EDEN. One major difference is that EDA will be dealing directly with applicants rather than through other agencies as was done with most of title X. Also, the entire focus of this program is primarily on construction projects which will produce facilities of lasting benefit; this was not so major a consideration in the title X program.

FUNDING LIMITATIONS

Senator PASTORE. What kind of funding limitation do you plan to impose?

Mr. EDEN. We plan to impose a ceiling of \$5 million per project; however, we have provided for the possibility for a waiver of this requirement in unusual circumstances.

Senator PASTORE. Would this be a limit on the total cost of the project or just the EDA share?

Mr. EDEN. This ceiling would apply only to the EDA share of the project costs.

UNEMPLOYMENT RATES

Senator PASTORE. How will local rates of employment be determined?

Mr. EDEN. We will use data from the BLS wherever it is available. Where suitable data does not exist the State employment security administration will work with the applicant to determine what unemployment data is applicable to the project area.

START OF CONSTRUCTION

Senator PASTORE. The authorizing legislation provides that projects must be able to start construction within 90 days of approval.

What will constitute a start of construction?

Mr. EDEN. The project must be capable of starting construction within 90 days. We do not think this means there are no circumstances in which it might take slightly longer to get started. Onsite labor is what we will be looking for; if there are employees at work at the site, the project is considered to have started.

STATE PLANS AND PRIORITIES

Senator PASTORE. How will approved projects relate to State plans?

Mr. EDEN. The act requires that the project must relate to long-range plans wherever feasible. The project selection procedure provides that when an applicant demonstrates that the project ties into local or regional development plans, the basic rank of the project will be increased by 5 percent.

Senator PASTORE. What actions, if any, will you take to establish priorities within States? Will the projects be approved on first come, first served basis, or will there be some rational basis for selecting projects within States?

Mr. EDEN. First of all, the provisions of the act do lead, in essence, to a first come first served approach. However, as far as the distribution of projects within a State is concerned, we are confident that the selection criteria will result in an equitable distribution of projects among the various areas of need with the State.

JOB CREATION VERSUS WELFARE

Senator PASTORE. Let me point out some facts:

No. 1, unemployment is up to 7.8 percent in July from 7.3 percent in May. In the construction industry it is 17.7 percent.

No. 2, 566,000 people have been added to unemployment rolls in the last 2 months.

No. 3, 7,426,000 Americans are unemployed. This does not count the 1.5 million unemployed who are so discouraged by the state of the economy that they have given up looking for work.

No. 4, in the last 3 years, unemployment benefits have totaled \$37 billion, more than one-third of all benefits paid since the beginning of the unemployment compensation program 40 years ago.

No. 5, \$17 billion in benefits will be paid this year alone, including \$5 billion in Federal funds.

Now let me ask you, isn't it more sensible to divert a portion of the budget to provide job opportunities under this program and put people back to work constructing facilities of lasting value to the community, rather than passively continuing to pour more and more Federal funds into the unemployment trust fund?

Mr. EDEN. Mr. Chairman, I certainly agree that it is important to have people working and that the work they are doing should have meaning.

Senator PASTORE. I'm not blaming you for the vetoes. You had nothing to do with it. That is not your province. But I wanted to get those facts into the record.

DISBURSEMENT OF FUNDS

Senator PASTORE. The Congressional Budget Office estimates that the outlays associated with the \$2 billion appropriation would be as follows: 1977, \$600 million; 1978, \$920 million; 1979, \$460 million; 1980, \$20 million.

In other words, three-fourths of the funds will be spent in the first 2 years of the program while unemployment rates are still high—unemployment in the construction industry is 17.7 percent—and thus will not contribute to inflation as some have claimed.

Do you have any comment on this?

Mr. EDEN. We are in general agreement as to the rate at which funds will be disbursed. I think it is important to note that not all of this spend-out will be in the form of wages to unemployed workers. A significant portion of the funding will go for materials and other costs which could have some inflationary possibilities.

CORRESPONDENCE

Senator PASTORE. Mr. Eden, I have a letter from Dennis M. Lynch, president of the Rhode Island League of Cities and Towns which I will place in the record at this point.

Would you please look over this letter and comment for the record on the matter that Mr. Lynch raises. I believe the answer to Mr. Lynch's query is contained in the authorizing statute but I would like to have your views on this matter for the record.

[The response and letter follow:]

The State allocation process provides that 65 percent of the funds will be allocated on the basis of the number of unemployed persons in the State; the remaining 35 percent is to be allocated on the basis of the severity, or rate, of unemployment in the State.

RHODE ISLAND LEAGUE OF CITIES AND TOWNS

39 PIKE STREET ▪ PROVIDENCE, R. I. 02903 ▪ TELEPHONE 272-3434

EXECUTIVE DIRECTOR — JOSEPH T. McDEVITT

August 18, 1976

Senator John O. Pastore
301 P.O. Annex
Providence, RI

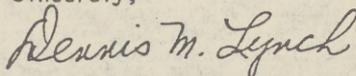
Dear Senator Pastore:

In response to my earlier letter, Messrs. Terrence Sauvain and Dante Ionata have been in contact with myself and members of my staff to keep us informed on the latest developments relating to the Public Works Employment Act of 1976. I appreciate your active interest.

I am especially concerned that potential regional or state allocations under Title I might be based on the absolute number of unemployed persons. A small state--such as Rhode Island--with a relatively low number of unemployed but a high rate would suffer under such a formula. I would strongly urge your support in requesting that the Economic Development Administration heavily weigh unemployment rates in determining regional or state allocations.

If I can provide any additional information from our members, please feel free to contact me. I would be happy to meet with you on this critical issue at your convenience.

Sincerely,



Dennis M. Lynch
President

AUTHORIZING STATUTE

Senator PASTORE. A copy of the authorizing statute will be placed in the record at this point.
[The Public Works Employment Act of 1976, Public Law 94-369, follows:]

Public Law 94-369
94th Congress, S. 3201
July 22, 1976

An Act

To authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Works Employment Act of 1976".

TITLE I—LOCAL PUBLIC WORKS

SEC. 101. This title may be cited as the "Local Public Works Capital Development and Investment Act of 1976".

SEC. 102. As used in this title, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

SEC. 103. (a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this Act.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

SEC. 104. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this Act. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this Act is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

SEC. 105. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is

Public
Works Em-
ployment Act
of 1976,
42 USC 6701
note,
Local Pub-
lic Works
Capital
Development
and Invest-
ment Act of
1976,
42 USC 6701
note,
Definitions,
42 USC 6701,
Grants,
42 USC 6702,

Federal
share,
42 USC 6703,

42 USC 6704,

authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

42 USC 6705.

SEC. 106. (a) No grant shall be made under section 103, 104, or 105 of this Act for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) No part of any grant made under section 103, 104, or 105 of this Act shall be used for the acquisition of any interest in real property.

(c) Nothing in this Act shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this Act.

(d) Grants made by the Secretary under this Act shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

Rules and
regulations,
42 USC 6706.

SEC. 107. The Secretary shall, not later than thirty days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this Act not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

42 USC 6707.

SEC. 108. (a) Not less than one-half of 1 per centum or more than 12½ per centum of all amounts appropriated to carry out this title shall be granted under this Act for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the

aggregate shall be granted for such projects in all three of these jurisdictions.

(b) In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments.

(c) In making grants under this Act, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds $6\frac{1}{2}$ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of $6\frac{1}{2}$ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Seventy per centum of all amounts appropriated to carry out this Act shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) The unemployment rate of a local government shall, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

(f) In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(g) States and local governments making application under this Act should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

Sec. 109. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R.

42 USC 6708.

- 5 USC app. I. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).
- Nondiscrimination.
42 USC 6709. SEC. 110. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this Act, including any supplemental grant made under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.
- 42 USC 2000d. SEC. 111. There is authorized to be appropriated not to exceed \$2,000,000,000 for the period ending September 30, 1977, to carry out this Act.
- Appropriation authorization.
42 USC 6710.

TITLE II—ANTIRECESSION PROVISIONS

FINDINGS OF FACT AND DECLARATION OF POLICY

- 42 USC 6721. SEC. 201. FINDINGS.—The Congress finds—
- (1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;
 - (2) that present national economic problems have imposed considerable hardships on State and local government budgets;
 - (3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;
 - (4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;
 - (5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;
 - (6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and
 - (7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

FINANCIAL ASSISTANCE AUTHORIZED

- 42 USC 6722. SEC. 202. (a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall, in accordance with the provisions of this title, make payments to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Subject to the provisions of subsections (c) and (d), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1976) for the purpose of payments under this title—

(1) \$125,000,000 plus

(2) \$62,500,000 multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) **AGGREGATE AUTHORIZATION.**—In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) for the five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed \$1,250,000,000.

(d) **TERMINATION.**—No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent, and

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

ALLOCATION

SEC. 203. (a) **RESERVATIONS.**—

42 USC 6723.

(1) **ELIGIBLE STATES.**—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b).

(2) **ELIGIBLE UNITS OF LOCAL GOVERNMENT.**—The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c).

(b) **STATE ALLOCATION.**—

(1) **IN GENERAL.**—The Secretary shall allocate from amounts reserved under subsection (a) (1) an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a) (1) for the calendar quarter multiplied by the applicable State percentage.

(2) **APPLICABLE STATE PERCENTAGE.**—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State revenue sharing amount by the sum of such products for all the States.

(3) **DEFINITIONS.**—For the purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State but shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975.

31 USC 1226.

(c) LOCAL GOVERNMENT ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a) (2) an amount for the purpose of making payments to each local government, subject to the provisions of paragraphs (3) and (5), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

(2) LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local revenue sharing amount, by the sum of such products for all local governments.

(3) SPECIAL RULE.—

(A) For purposes of paragraphs (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local government within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making payments to each local government, other than identifiable local governments within the jurisdiction of such State.

(C) The amount set aside for the purpose of making payments to each local government, other than an identifiable local government, with the jurisdiction of a State under subparagraph (B) shall be—

(i) equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4) (B) and (C) of this subsection), unless

(ii) such State submits, within thirty days, after the effective date of this title, an allocation plan which has been approved by the State legislature and which meets the requirements set forth in section 206(a), and is approved by the Secretary under the provisions of section 206(b). In the event that a State legislature is not scheduled to meet in regular session within three months after the effective date of this title, the Governor of such State shall be authorized to submit an alternative plan

which meets the requirements set forth in section 206 (a), and is approved by the Secretary under the provisions of section 206 (b).

(D) If local unemployment rate data (as defined in paragraph (4) (B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary shall determine such amount under subparagraph (C) by using the local unemployment rate determined under the parenthetical phrase of subsection (4) (B) for all local governments in such State treated as one jurisdiction under paragraph (A) of this subsection unless better unemployment rate data, certified by the Secretary of Labor, is available.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3) (A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975 (and in the case of local governments treated as one local government under paragraph (3) (A), the local revenue sharing amount shall be the sum of the local revenue sharing amounts of all eligible local governments within the State, adjusted by excluding an amount equal to the sum of the local revenue sharing amounts of identifiable local governments within the jurisdiction of that State);

(D) the term "identifiable local government" means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II or title VI of the Comprehensive Employment and Training Act of 1973 during the current or preceding fiscal year; and

(E) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also

31 USC 1227.

29 USC 841,
961.

includes the recognized governing body of an Indian tribe of Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

For the purpose of paragraph (4) (D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI.

29 USC 961.

(5) SPECIAL LIMITATION.—If the amount which would be allocated to any unit of local government under this subsection is less than \$100, then no amount shall be allocated for such unit of local government under this subsection.

USES OF PAYMENTS

42 USC 6724.

SEC. 204. Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services.

STATEMENT OF ASSURANCES

42 USC 6725.

Rules.

SEC. 205. Each State and unit of local government may receive payments under this title only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than ninety days after the effective date of this title. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

(1) an assurance that payments made under this title to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 204;

(2) an assurance that the State or unit of local government will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under

Reports,
publication.

this title or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

(4) an assurance that the requirements of section 207 will be complied with;

(5) an assurance that the requirements of section 208 will be complied with;

(6) an assurance that the requirements of section 209 will be complied with;

(7) an assurance that the State or unit of local government will spend any payment it receives under this title before the end of the six-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

(8) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

OPTIONAL ALLOCATION PLANS

SEC. 206. (a) STATE ALLOCATION PLANS FOR PURPOSES OF SECTION 203(c)(3).—A State may file an allocation plan with the Secretary for purposes of section 203(c)(3)(C)(ii) at such time, in such manner, and containing such information as the Secretary may require by rule. Such rules shall be provided by the Secretary not later than sixty days of the effective date of this title. Such allocation plan shall meet the following requirements:

42 USC 6726.

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 203(c)(2);

(2) the plan shall use—

(A) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(B) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located,

(3) the allocation criteria must be specified in the plan, and

(4) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments.

(b) APPROVAL.—The Secretary shall approve any allocation plan that meets the requirements of subsection (a) within thirty days after he receives such allocation plan, and shall not finally disapprove, in whole or in part, any allocation plan for payments under this title without first affording the State or local governments involved reasonable notice and an opportunity for a hearing.

Rules.

NONDISCRIMINATION

SEC. 207. (a) IN GENERAL.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

42 USC 6727.

(b) **AUTHORITY OF THE SECRETARY.**—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within ten days, notify the Governor of the State (or, in the case of a unit of local government the Governor of the State in which such unit is located, and the chief elected official of the unit) of the non-compliance. If within thirty days of the notification compliance is not achieved, the Secretary shall within ten days thereafter—

42 USC 2000d.

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(3) take such other action as may be provided by law.

(c) **ENFORCEMENT.**—Upon his determination of discrimination under subsection (b), the Secretary shall have the full authority to withhold or temporarily suspend any payment under this title, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964, to assure compliance with the requirement of nondiscrimination in federally assisted programs funded, in whole or in part, under this title.

(d) **APPLICABILITY OF CERTAIN CIVIL RIGHTS ACTS.**—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Revised Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the administration of a payment under this title may bring a civil action under such section 1979 or 1980, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of a payment under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e-5(f)(1)) subject to the terms and conditions of such title.

LABOR STANDARDS

42 USC 6728.

SEC. 208. All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

5 USC app. I.

SPECIAL REPORTS

42 USC 6729.

SEC. 209. Each State and unit of local government which receives a payment under the provisions of this title shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each State which receives a payment under the provisions of this title shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the units of local governments during the twelve-

month period which ends on the last day of the calendar quarter immediately preceding the date of enactment of this title, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not more than six months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

PAYMENTS

SEC. 210. (a) IN GENERAL.—From the amount allocated for State and local governments under section 203, the Secretary shall pay not later than five days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such State or local government under section 203. 42 USC 6730.

(b) ADJUSTMENTS.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(c) TERMINATION.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 4.5 percent, and

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 4.5 percent.

STATE AND LOCAL GOVERNMENT ECONOMIZATION

SEC. 211. Each State or unit of local government which receives payments under this title shall provide assurances in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this title are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations. 42 USC 6731.

WITHHOLDING

SEC. 212. Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 205, the Secretary shall notify that State or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title. Hearing, 42 USC 6732.

REPORTS

SEC. 213. The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State and units of 42 USC 6733.

local government and a description of any action which the Secretary has taken under the provisions of section 212 during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this title, any actions with which the Secretary has taken under the provisions of section 212, and an evaluation of the purposes to which amounts paid under this title were put by State and units of local government and economic impact of such expenditures during the previous calendar year.

ADMINISTRATION

42 USC 6734.

SEC. 214. (a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules should be prescribed by the Secretary not later than ninety days of the effective date of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

PROGRAM STUDIES AND RECOMMENDATIONS

42 USC 6735.

SEC. 215. (a) EVALUATION.—The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within one year after the date of enactment of this title together with an evaluation of the macroeconomic effect of the program established under this title and any recommendations for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

Report to
Congress.

(b) COUNTERCYCLICAL STUDY.—The Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward State and local governments. Such study shall include a comparison of the effectiveness of alternative factors for triggering and measuring the extent of the fiscal coordination problem addressed by this program, and the effect of the recession on State and local expenditures. Before and during the course of such study, the Congressional Budget Office and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Congressional Budget Office and the Advisory Commission shall report the results of such study to Congress within two years after the date of enactment of this title. Such study shall include the opinions of the Comptroller General with respect to such study.

Report to
Congress.

TITLE III—FEDERAL WATER POLLUTION
CONTROL ACT AMENDMENTS

SEC. 301. There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, for the fiscal year ending September 30, 1977, not to exceed \$700,000,000 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94-25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended.

Appropriation
authorization.
33 USC 1287
note.
33 USC 1281.

CARL ALBERT

Speaker of the House of Representatives.

JOHN CULVER

Acting President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,

July 21, 1976.

The Senate having proceeded to reconsider the bill (S. 3201) entitled "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO

Secretary.

I certify that this Act originated in the Senate.

FRANCIS R. VALEO

Secretary.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

July 22, 1976.

The House of Representatives having proceeded to reconsider the bill (S. 3201) entitled "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.

Clerk.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1077 accompanying H. R. 12972 (Comm. on Public Works and Transportation) and No. 94-1260 (Comm. of Conference).

SENATE REPORTS: No. 94-710 (Comm. on Public Works) and No. 94-939 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 12, 13, considered and passed Senate.

May 13, considered and passed House, amended, in lieu of H. R. 12972.

June 16, Senate agreed to conference report.

June 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 28:

July 6, vetoed; Presidential message.

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 21, Senate overrode veto.

July 22, House overrode veto.

90 STAT. 1012

REGULATIONS AND GUIDELINES

Senator PASTORE. Next, the regulations and guidelines will be placed in the record.

[The final rules and regulations and the program guidelines relating to the Public Works Employment Act of 1976, follow:]

federal register

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MONDAY, AUGUST 23, 1976



PART V:

DEPARTMENT OF COMMERCE

**Economic Development
Administration**



LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Final Rulemaking

RULES AND REGULATIONS

Title 13—Business Credit and Assistance
 CHAPTER III—ECONOMIC DEVELOPMENT
 ADMINISTRATION, DEPARTMENT OF
 COMMERCE

PART 316—LOCAL PUBLIC WORKS CAPITAL
 DEVELOPMENT AND INVESTMENT
 PROGRAM

The Economic Development Administration, pursuant to Title I of the Public Works Employment Act of 1976, hereby publishes these regulations to amend Title 13 of the Code of Federal Regulations by adding a new Part 316. These regulations describe procedures by which eligible applicants may receive financial assistance for the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects and for the completion of plans, specifications, and estimates for local public works projects.

STATEMENT OF OBJECTIVES

LEGISLATIVE OBJECTIVES

On the basis of an in-depth study of the Local Public Works Capital Development and Investment Act of 1976 and its legislative history, it has been determined that the purpose of this legislation is to provide:

- a. Employment opportunities in areas of high unemployment through the expeditious construction or renovation of useful public facilities; and
- b. A countercyclical stimulus to the national economy.

EDA PROGRAM OBJECTIVES

Analyses of past public works programs and the Economic Development Administration's (EDA) experience in operating such programs have revealed certain characteristics about the extent and nature of employment generated by public works construction. Of these, the most relevant to the objectives of the Local Public Works Capital Development and Investment Act are the preponderance of skilled construction jobs and the relatively high cost of creating a job through such an approach. Between 68 and 81 percent of the costs of a public works project are for materials, equipment, overhead, and contractor profits, leaving between 19 and 32 percent for on-site wages. Consequently, even the most labor intensive public works projects generate a limited amount of direct employment per dollar of project cost. Public works projects do, however, result in useful end products and are commonly believed to provide general economic stimulation, particularly to the construction and construction-related industries.

In recognition of these characteristics of public works construction projects, as well as other considerations deriving from the legislation and EDA's experience, the following objectives for implementing the Local Public Works Act have been established:

- a. To insure that consideration is given to the relative needs of the various sections of the country;

- b. Within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, that maximize employment opportunities for unemployed residents of the project area;

- c. To fund locally oriented projects that provide useful public facilities in areas of high unemployment and low income;

- d. To fund projects that advance local plans and contribute to long-term development;

- e. To fund facilities that could not have been constructed in the absence of the Local Public Works grant (i.e., facilities for which Federal funds are not merely replacing or reducing local, State or other Federal monies that have been specifically provided or set aside); and

- f. To carry out a comprehensive evaluation of both the direct employment impact and the indirect or stimulative impact of the projects funded.

Because these regulations pertain to a grant program administered by the Economic Development Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. In addition, Section 107 of the Public Works Employment Act of 1976 requires implementing regulations to be prescribed within thirty days after date of enactment.

However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230 by September 24, 1976. This is a new and widespread program, and all suggestions received will be carefully considered. If a sufficient number of valid comments raising significant issues are received, these regulations may be amended and republished. Until such time as further changes are made, however, 13 CFR Part 316 shall remain in effect, thus permitting the public business to proceed more expeditiously.

The application form, necessary to carry out the Public Works Employment Act of 1976, as provided in Section 107 therein, has been prescribed and submitted to the Office of Management and Budget for clearance as required by OMB Circular No. A-40, as revised on February 10, 1976. When clearance has been received, EDA will publish the application form, which will then be available through EDA and its Regional Offices.

Interested persons should take notice that it is the policy of the Economic Development Administration that no applications for financial assistance pursuant to Title I of the Public Works Employment Act of 1976 will be accepted until the funds to implement the program have actually been appropriated and apportioned to and made available for use by the agency.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend or go beyond the statute, and therefore, there is no inflationary impact of these regulations beyond the statute.

Accordingly, the regulations shall read as follows:

Sec.	Purpose.
316.1	Definitions.
316.2	Applicants.
316.3	Direct grants.
316.4	Supplemental grants.
316.5	Limitations on grants.
316.6	Priority of projects.
316.7	Allocation of program resource levels to regional offices.
316.8	Determination of unemployment rates.
316.9	General considerations and requirements for financial assistance.
316.10	Compliance with other Federal requirements.
316.11	Acceptance of applications.
316.12	Environmental considerations.
316.13	Final determination.
316.14	Termination.

AUTHORITY: Title I, Pub. L. 94-369 (July 22, 1976); 42 U.S.C. 6701 et seq.; 90 Stat. 999; and Department of Commerce Organization Order 10-4 (September 30, 1976), as amended (40 FR 58702, as amended at 40 FR 58878).

§ 316.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants under Title I of the Public Works Employment Act of 1976, which is entitled the "Local Public Works Capital Development and Investment Act of 1976."

§ 316.2 Definitions.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan native village.

"Initiation of construction" means that a contract has been awarded for construction of the project or notice to proceed or its equivalent has been issued or on-site labor has begun, whichever is earlier.

"Local Public Works Act" means the "Local Public Works Capital Development and Investment Act of 1976," which is Title I of the Public Works Employment Act of 1976.

"Local government" means any city, county, town, parish, or other political subdivision of a State (including local school districts), and any Indian tribe.

"Maintenance costs" means costs that are incurred for any necessary repairs or upkeep of property which neither adds to the permanent value of the property or appreciably prolongs its intended life, but rather keeps it in an efficient operating condition.

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"Political subdivision of a State" means the agencies, instrumentalities and authorities established or authorized by State law including, but not limited to, special districts and regional authorities formed by local governments.

"Public works" means public facilities including, but not limited to, municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

§ 316.3 Applicants.

A State or a local government, as defined in § 316.2 of this part, is eligible for assistance under the Local Public Works Act.

§ 316.4 Direct grants.

(a) The Assistant Secretary may make direct grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the Local Public Works Act. Such grants may include funds for the completion of plans, specifications and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

(b) Applications under this section will be approved only if the applicant submits with its application, if applicable, a written certification from the other Federal agency/agencies that the project meets all applicable Federal statutory and regulatory requirements.

(c) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the project.

§ 316.5 Supplemental grants.

(a) The Assistant Secretary may make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the project cost for any Federally-assisted public works project authorized by any Federal law other than the Local Public Works Act if the applicant submits with its application:

(1) A written certification from the other Federal agency/agencies that:

(i) Federal financial assistance for the project has been approved and the funds are immediately available for the project;

(ii) The project meets all applicable Federal statutory and relevant related requirements; and

(2) Its written certification that actual construction of the project has not yet been initiated because of lack of funding for the non-Federal share.

(b) The Assistant Secretary also may make grants in an amount necessary to provide all or part of the required State or local share (but not both shares) of the cost of any public works project for which financial assistance is authorized by State or local law requiring such contribution if the applicant submits with its application a written certification from the appropriate authority that:

(1) The share of financial assistance not applied for has been properly approved and is immediately available for the project;

(2) The project meets all applicable statutory and other relevant requirements of law; and

(3) Construction of the project has not yet been initiated.

(c) Grants under this section may include funds for the completion of plans, specifications, and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

§ 316.6 Limitations on grants.

(a) *Canals and watercourses.* No grant shall be made under this part for any project having as its principal purpose and permanent effect:

(1) The channelization, damming, diversion, or dredging of any natural watercourse, or

(2) The construction or enlargement of any canal except a canal or raceway designated for maintenance as an historic site.

(b) *Real property.* No part of any grant made under this part shall be used for the acquisition of any interest in real property.

(c) *Maintenance.* No part of any grant made under this part shall be used for the payment of maintenance costs in connection with a project constructed (in whole or in part) with Federal financial assistance under the Local Public Works Act.

§ 316.7 Priority of projects.

(a) *Allocation of funds.* (1) In making grants under this part, when the average national unemployment rate for the three most recent consecutive months for which data is available from the United States Department of Labor, has been at least 6½ percent:

(i) Seventy percent of all amounts appropriated to carry out the Local Public Works Act shall be allocated for project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available exceeds the average national unemployment rate for the same period of time. The Assistant Secretary shall expedite and give priority to applications in this category.

(ii) The remaining thirty percent of all amounts appropriated to carry out the Local Public Works Act shall be available for distribution according to priority as listed below:

(A) Project applications submitted by State or local governments whose average

unemployment rate for the three most recent consecutive months for which information is available is more than 6½ percent but not more than the average national unemployment rate for the same period of time, and

(B) Project applications submitted by State or local governments whose average unemployment rate for the three most recent consecutive months for which information is available is 6½ percent or less. These project applications will be considered only when funding of such projects is necessary to fulfill the minimum funding level required for each State or if funds are available in the 30 percent category.

(b) *State limitations:* Not less than one-half of one percent or more than twelve and one-half percent of all amounts appropriated to carry out the Local Public Works Act shall be granted for local public works projects within any one State, except that not less than one-half of one percent of the total of all funds appropriated for this part shall be granted for public works projects in Guam, the Virgin Islands, and American Samoa, in the aggregate.

§ 316.8 Allocation of program resource levels to regional offices.

(a) *Regional allocations.* To assist in the orderly utilization of program resources, the Assistant Secretary will assign to each regional office a target level of anticipated project assistance for the total of all areas served by that regional office. Such regional allocations of program resources shall be based on appropriation apportionments available to EDA and shall be calculated on a formula basis reflecting the relative numbers of unemployed persons in the States served by the regional office and the level of unemployment rates in those States.

(b) *State planning ceilings.* Regional offices shall observe with respect to each State served by it a ceiling on project approval recommendations. The allocation of funds to regions and States will be made after the funds have been apportioned to EDA and will be based on unemployment data available at that time. EDA will announce the date on which the funds are apportioned and the allocation is made. The formula by which the planning ceiling for each State will be established is as follows:

Subject to program administrative costs and statutory minimum and maximum amounts allocated to individual States by the legislation, 65 percent of the funds will be set aside as planning ceilings for individual States based on the share of unemployed workers residing in a State of the total national unemployed; 35 percent of the funds will be set aside as planning ceilings to individual States based on the relative severity of unemployment for each State above the national unemployment rate.

(c) It is to be understood that the planning ceiling assigned to each State is not to establish an entitlement to any minimum level of project assistance within that State (unless such is the statutory maximum or minimum) but is adopted only for the purpose of furthering the objective of assuring that ade-

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quate consideration is given to the relative needs of various sections of the country. Where the planning ceiling calculated on the formula basis is less than the statutory minimum assured for each State the statutory minimum shall be the planning ceiling, and where the planning ceiling calculated on the formula basis is greater than the statutory maximum for any State the statutory maximum shall be the planning ceiling.

(d) 120 days after the date on which funds are first apportioned for program assistance under the Act and at any time thereafter the Assistant Secretary may reconsider the regional allocations and State ceilings previously established and make such adjustments as are determined to be reasonable in achieving the purposes of the Act.

§ 316.9 Determination of unemployment rates.

(a) The average unemployment rate for the three most recent consecutive months for which data is available for a State or local government applicant under this part may be determined from information obtained in the following order:

(1) *The United States Department of Labor.* (i) EDA's Qualification Division has provided to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which shows the average unemployment rate for the three most recent consecutive months for:

(A) the entire nation;

(B) each State; and

(C) where available, "identifiable" local governments.

(ii) On or before September 15, 1976, EDA's Qualification Division will provide to EDA's Regional Offices and Economic Development Representatives a list, prepared by the United States Department of Labor, which will show the average unemployment rate for the three most recent consecutive months for approximately 1,000 counties throughout the nation.

(iii) The above lists will be updated and expanded if and when more information is obtained from the United States Department of Labor.

(2) If not available from the United States Department of Labor the average unemployment rate for the three most recent consecutive months for which information is available shall be obtained from the State employment security agency.

(3) Indian tribes shall submit information from the Bureau of Indian Affairs of the United States Department of Interior or other appropriate sources acceptable to the Assistant Secretary.

(b) If requested by an applicant, the unemployment rate of a local government shall be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community

or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood. The applicant shall apply to the State employment security agency for the average unemployment rate for the three most recent consecutive months for which data is available. The data obtained from the State employment security agency will be accepted by the Assistant Secretary.

(c) If requested by an applicant, in determining the unemployment rate of a local government, unemployment in those adjoining areas from which the labor force for a project may be drawn shall be taken into consideration.

(d) The Assistant Secretary has obtained from all State employment security agencies their cooperation to provide all applicants, other than Indian tribes, with unemployment data.

(e) EDA will not accept an unemployment rate determination that is based on data obtained for a time period which is longer than twelve months prior to the date of the application as stated therein.

(f) The unemployment rate established by one of the procedures above, will determine whether the area qualifies for the 70 percent or 30 percent category as described in § 316.7 above.

(g) No data regarding unemployment rates for time periods after the date of the application as stated therein, may be changed.

§ 316.10 General considerations and requirements for financial assistance.

(a) *Project selection procedure.*—(1) *Considerations.* In line with the purposes and objectives of the Act, EDA's goal of choosing projects having the greatest potential for furthering these purposes and objectives, the relative importance of various factors in determining this potential, and the availability and consistency of data specified in the Act, the following project selection procedures have been adopted.

(2) *Project selection formula.* The ranking procedure developed for selecting projects within each State's planning allocation uses those project and area factors that will contribute most to achieving substate equity in the distribution of planning funds and insures that the relatively more economically efficient projects are selected. All factors will be standardized for comparability purposes and assigned policy weights to reflect their importance in the ranking procedure.

(i) *Basic rank.* The basic rank of a project will be determined by the following factors:

(A) The number of unemployed workers in the project area averaged over the three most recent months for which data is available. An area characterized as having a high unemployment rate overall is generally characterized as having a high unemployment rate in the construction industry. Similarly, an area characterized as having a large number of unemployed overall is generally characterized as having a relatively large

number of unemployed construction workers as a share of the overall unemployed. Therefore, this factor gives consideration to construction unemployment. This factor will constitute 30 percent of a project's basic rank.

(B) Severity and duration of unemployment, as measured by the unemployment rate prevailing in the project area averaged over the last three months for which data is available. This factor will constitute 25 percent of a project's basic rank.

(C) The cost per person-month of employment, defined as the ratio of the total cost of the project to the total number of person-months of employment to be generated. In formulating project proposals, applicants should bear in mind the intent of the Act to reduce unemployment generally, and to give due consideration to the amount of unemployment and underemployment in the construction and construction-related industries. As previously indicated, projects eligible for funding would include, but are not limited to, such local public works projects as municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads, civic centers, museums, health, education and social service facilities, convention centers, and the upgrading of existing facilities through renovation, repair, and other related improvements. Finally, it should be emphasized that supplemental assistance provided for under the Act will be considered as part of total project costs; the latter is defined as funds from all sources, whether Federal, State, or local. The cost per person-month of employment factor will constitute 30 percent of a project's basic rank.

(ii) *Additional considerations.* A project's basic rank will be increased if the project meets one or more of the following criteria:

(A) Exhibits potential for providing long-term benefits. The basic rank of a project will be increased up to a maximum of 10 percent if it meets this criterion. The amount of increase will be determined by the nature and extent of the long-term benefit(s) to be provided by the project.

(B) Is sponsored by a general purpose unit of local government, as defined in § 316.2 above. Projects meeting this criterion will have their basic ranks increased by five percent.

(C) Relates to existing approved plans and programs of a local community development or regional development nature or promotes or advances longer range plans and programs. The basic rank of a project meeting this criterion will be increased by five percent.

(iii) *Final rank.* The final rank of a project is to be determined by summing the basic rank and increases attributable to the additional considerations defined above.

(3) *Application of project selection formula.*—(i) *Geographic considerations.* Projects will be ranked and assessed relative to other projects submitted from the same State until such time as the Assis-

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ant Secretary determines, pursuant to paragraph (a) (2) above, that comparison of projects submitted from different States is required to either further the purposes and objectives of the Act or to comply with statutory requirements.

(ii) *Priority considerations.* Within each State, projects submitted from areas with an unemployment rate exceeding the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in this priority category. Similarly, projects submitted by areas with an unemployment rate below the national average for the most recent consecutive three months will be ranked and compared only with projects submitted from other areas in the same priority category. Applicants who anticipate the project labor requirements will draw upon the unemployed and underemployed labor resources of other jurisdictions outside the immediate project area (such as a multi-county area) will be given priority consideration on the basis of the unemployment rate prevailing in the extended geographical (labor market) area. Similarly, the basic rank computations discussed above will be computed in aggregate on data provided for the extended geographical area.

(iii) *Project selection.* Within each State and priority category, projects will be selected on the basis of their final ranks until the State planning allocation for each priority category has been exhausted or until such time as the Assistant Secretary determines that the remaining funds made available under the Act must be reallocated among the States.

(b) An application shall be rejected unless:

(1) It is properly prepared on appropriate forms prescribed by the Assistant Secretary.

(2) It contains one of the following:
(i) Information showing that the area conforms to an area for which United States Department of Labor unemployment statistics are available; or

(ii) Unemployment information from the appropriate State unemployment security agency.

(3) It contains a certification by the applicant that construction on the project has not yet been initiated;

(4) It contains assurances, satisfactory to the Assistant Secretary, that on-site labor can begin within ninety days of project approval;

(5) Where applicable, it relates the proposed project to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions;

(6) It contains evidence, where feasible, that the proposed project will promote or advance longer range plans and programs;

(7) It contains adequate assurances that all laborers and mechanics employed by contractors or subcontractors on the proposed project will be paid wages at rates not less than those prevailing on similar construction in the

locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5).

(8) It contains adequate assurance by the applicant and by any "other parties" as defined in 15 CFR Subtitle A, Part 8, that no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under the proposed project; and an assurance that it is not involved in any civil rights litigation or if it is involved in a lawsuit or Federal administrative action alleging discrimination it shall state the name of the case, the court where filed, or the name of the agency involved in the administrative action.

(9) It contains certification, by the properly authorized official of the Federal agency or State or local government, that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished, or replaced by funds requested under this part.

(c) Applicants shall be advised that false representations and/or certifications in connection with applications for assistance under this part may be the basis for criminal liability under title 18 of the United States Code.

(d) No cost overruns for public works projects previously funded under this part will be approved.

(e) Project costs for administration, plans, specifications, estimates and other A/E costs, which have been incurred prior to the date of application, will not be funded.

(f) Applications will not normally be approved where any of the following conditions exist:

(1) The project site, including easements and rights-of-way, has not been obtained, clear of any encumbrances; or

(2) The project request is for a supplemental to another Federal, State or local grant which has not been approved by the applicable grant agency.

(g) The maximum amount of financial assistance made available under this part should not exceed \$5 million for each project; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

(h) Projects which cannot be completed within two years after date of approval will not be considered; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

§ 316.11 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant under this part, comply with the following relevant Federal requirements:

(a) All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment as provided in 13 CFR 309.6;

(b) Those concerning relocation and related payments to all persons displaced

as a result of the development of a public works project with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 13 CFR Part 310;

(c) If the project involves a detention facility, those sections of Part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, found at 42 U.S.C. 3750 b(1) and (4)-(9);

(d) The provisions of OMB Circular A-95, except during the first ninety days after EDA begins receiving applications when the following procedures shall apply:

(1) Applicants must submit their full applications or notifications of intent to apply to the appropriate clearinghouse as early as possible.

(2) Upon submission of an application to EDA, the applicant must certify that he has submitted the full application to the appropriate clearinghouse.

(3) EDA may begin processing the application upon its receipt but will make no final approval of an application until 30 days after its receipt unless clearinghouse response is received before 30 days have elapsed.

(4) Clearinghouse comments will be submitted directly to EDA; EDA will consider such comments until it has finished processing the application.

(e) All environmental requirements, to the maximum extent possible, as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environment Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*); and EDA's requirements found in § 316.13 below;

(2) The Clean Air Act, as amended (42 U.S.C. 1857-1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) and EDA's requirements found in § 316.13 below;

(5) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271-1287) and EDA's requirements found in § 316.13 below;

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*);

(7) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 *et seq.*); and

(8) The Fish and Wildlife Coordination Act of March 10, 1934, as amended (16 U.S.C. 661-666c).

(f) 13 CFR 309.9, entitled "Records and Audit;"

(g) 13 CFR 309.27, entitled "Land use near Federal airfields;"

(h) 13 CFR 309.14, entitled "Design, construction, and alteration of buildings to accommodate the physically handicapped;"

(i) 13 CFR 309.26, entitled "Project modification;"

(j) 13 CFR Part 314, entitled, "Property management standards;"

(k) The National Flood Insurance Program and EDA's requirements re-

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garding flood hazards found at 13 CFR 309.15; and

(1) Other laws affecting this program.

§ 316.12 Acceptance of applications.

(a) Applications for assistance under this part shall only be submitted to the appropriate EDA Regional Office, as provided in 13 CFR 301.31.

(b) Applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office.

(c) EDA shall endeavor, within five working days from the date the application is actually received by the appropriate Regional Office, to determine whether the application has been completely and properly prepared, and contains accurate unemployment rates. An application may be rejected (denied) unless it contains full and accurate information including the requirements of Section 316.10 above. By the end of the fifth working day after the date the application was received, the Regional Director should notify the applicant if the application has been rejected, and state what is needed to properly complete the application. However, EDA reserves the right during the 60 day period after receipt of an application to reject an application for substantially being incomplete, improperly prepared, or otherwise failing to meet the requirements of this part.

§ 316.13 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) Since the Local Public Works Act requires applications to be processed within 60 days of their acceptance, EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decision.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application, except with respect to subsections C and D if such materials are not available in which case the applicant must so certify:

(1) a description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be

affected; and data on the expected environmental impact;

(ii) alternatives to the proposed project;

(iii) any environmental analysis previously conducted by local, State, Federal agencies; and

(iv) evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA, within the 60 day limit, may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may, within the 60 day limit, request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and request for comments prior to application's submission to EDA.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

(c) *The Wild and Scenic Rivers Act.* (1) If required, EDA will coordinate its processing of a proposed project with either the Department of Interior or the Department of Agriculture.

(2) EDA will use the results of this coordination process, even though completion of the process may not be possible, as a factor in making a final decision on the project.

§ 316.14 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director shall notify the applicant, in writing, when its application has been rejected and state the reasons therefor.

(c) The Regional Director shall forward to the Assistant Secretary in Washington, D.C., all applications which he deems are properly completed and eligible for assistance under this part.

(d) The Assistant Secretary shall review all applications received from the Regional Directors and make the final determination.

(e) If no determination has been made by the end of the sixtieth day after the application was received as determined in § 316.12 above, the application will be deemed to be approved.

§ 316.15 Termination.

(a) An appropriate official of the grantee may request EDA to cancel or terminate a public works project approved under this part. This request must be accompanied by a certified resolution or ordinance authorizing the requesting party to make such request. Before agreeing to such request, EDA will determine the legal sufficiency of such request.

(b) EDA may initiate a cancellation or termination of a project approved under this part for failure by the grantee to adhere to the requirements of the grant.

(c) EDA may, initiate a cancellation or termination of a project approved under this part whenever it determines that such cancellation or termination is in the best interest of the government. Cancellation or termination shall be effected by delivering a notice to the grantee specifying the extent of the cancellation or termination and the date upon which it becomes effective.

Effective date: These regulations become effective on August 23, 1976.

JOHN W. EBEN,
Assistant Secretary
for Economic Development.

AUGUST 20, 1976.

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August 23, 1976

ECONOMIC DEVELOPMENT ADMINISTRATION
GUIDELINES FOR LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT
AND INVESTMENT PROGRAM

A. Authority

Title I of the Public Works Employment Act of 1976, which is entitled the Local Public Works Capital Development and Investment Act of 1976, authorizes grants to any State or local government for local public works projects that will stimulate employment.

B. Objectives

1. Legislative Objectives

On the basis of an in-depth study of the Local Public Works Capital Development and Investment Act of 1976 and its legislative history, it has been determined that the purpose of this legislation is to provide:

- . Employment opportunities in areas of high unemployment through the expeditious construction or renovation of useful public facilities.
- . A countercyclical stimulus to the national economy.

2. EDA Program Objectives

Analyses of past public works programs and the Economic Development Administration's (EDA) experience in operating such programs have revealed certain characteristics about the extent and nature of employment generated by public works construction. Of these, the most relevant to the objectives of the Local Public Works Capital Development and Investment Act are the preponderance of skilled construction jobs and the relatively high cost of creating a job through such an approach. Between 68 and 81 percent of the costs of a public works project are for materials, equipment, overhead, and contractor profits, leaving between 19 and 32 percent for on-site wages. Consequently, even the most labor intensive public works projects generate a limited amount of direct employment per dollar of project cost. Public works projects do, however, result in useful end products and are commonly believed to provide general economic stimulation, particularly to the construction and construction-related industries.

In recognition of these characteristics of public works construction projects, as well as other considerations deriving from the legislation and EDA's experience, the following objectives for implementing the program authorized by this Act have been established:

- . To insure that adequate consideration is given to the relative needs of the various sections of the country.
- . Within those sections, to fund projects that maximize immediate employment opportunities and, wherever possible, that maximize employment opportunities for unemployed residents of the project area.
- . To fund locally oriented projects that provide useful public facilities in areas of high unemployment and low income.
- . To fund projects that advance local plans and provide long-term benefits.
- . To fund facilities that could not have been constructed in the absence of the Local Public Works grant (i.e., facilities for which Federal funds are not merely replacing or reducing local, State, or other Federal monies that have been specifically provided or set aside).
- . To carry out a comprehensive evaluation of both the direct employment impact and the indirect or stimulative impact of the projects funded.

C. Funding

The authorization for carrying out this program is \$2.0 billion for the period beginning with EDA's receipt of appropriation and ending September 30, 1977.

D. Eligible Applicants

Eligible applicants for this program are:

1. States

The several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

2. Local Governments

Any city, county, town, parish, or other political subdivision of a State (including general-purpose and special-purpose units of

government and local school districts), and any Indian tribe.

E. Eligible Areas

The Act requires that 70 percent of all funds appropriated for this program be granted for projects submitted by States or local governments having unemployment rates in excess of the national rate. It further requires that 30 percent of all funds appropriated be for projects submitted by States or local governments having unemployment rates equal to or below the national average. In line with these requirements, the following guidelines will govern area eligibility.

1. Unemployment Level

It shall be EDA's policy that the majority of projects approved will be in areas with an unemployment rate of 6.5 percent or more for the average of the three most recent consecutive months for which data is available. Projects in areas with an unemployment rate of less than 6.5 percent will be considered only when funding of such projects is necessary to fulfill the minimum funding level required for each State or if funds are available in the 30 percent category.

2. Eligibility for Priority Consideration

An area will be eligible for priority consideration based on unemployment rates developed using the procedures described in Section E.3.b. Priority will be given to areas based on these unemployment rates for the 70-30 categories discussed above.

3. Determination of Areas Eligible for Priority Consideration

a. Project Area Definition

- 1) To establish an unemployment rate for an area, a "project area" must be defined. The boundaries for this project area may be defined according to the area from which the labor force for the project is expected to be drawn. The project area should be one for which unemployment rates are available or easily calculable. Such areas include, but are not limited to, census tracts, neighborhoods, counties, cities, Standard Metropolitan Statistical Areas, and multi-county areas or parts thereof.
- 2) In determining where the labor force can be expected to be drawn from, the journey-to-work characteristics of the

labor force and the applicant's intent to hire the unemployed of a specific area must be considered.

- 3) Applicants who anticipate that project labor requirements will draw upon the unemployed and underemployed labor resources of other jurisdictions outside the immediate project area (such as a multi-county area) may define their project area to include those jurisdictions.

b. Procedures for Obtaining Unemployment Data

Note: The unemployment data discussed in these guidelines must be for periods within the 12 months preceding the date of application.

1) Bureau of Labor Statistics

The principal source of the unemployment statistics to be used in considering applications submitted by States and local governments will be the latest available data published by the U. S. Bureau of Labor Statistics (BLS). This data will be used to determine whether an application comes from a 70 percent area or a 30 percent area and to rank individual projects from these areas within a State.

Initially, EDA Regional Offices and Economic Development Representatives (EDRs) will be furnished a list for public use that will contain unemployment data for those States and "identifiable" local governments for which BLS, for its Comprehensive Employment and Training Act of 1975 (CETA), has published such data. The initial data will include the unemployment rate and total number of unemployed persons for the three most recent consecutive months for States and areas for which information is available. BLS data indicating unemployment rates by county will become available in the near future and will also be furnished to EDA Regional Offices and EDRs. Potential applicants should contact EDRs or EDA Regional Office staff to determine if they are covered by such BLS data.

2) State Employment Security Agencies

An applicant whose proposed project is in an area for which BLS unemployment data is not available may seek to obtain the required data, for the three most recent consecutive months, from the appropriate State Employment Security Agency. EDA will automatically accept the unemployment data as confirmed by the State Agency. This confirmation must accompany the project application.

3) Specially Defined Areas

A local government situated within a larger area may seek to obtain State confirmation for its own unemployment rate. A local government may also seek to obtain State confirmation for any community or neighborhood within its jurisdiction. The U. S. Department of Labor has issued instructions to State Employment Security Agencies to respond affirmatively to the requests of local governments for unemployment rates for the three most recent consecutive months for both these types of areas. However, no such request should be made by a local government unless it has good reason to believe that the unemployment rates of such areas warrant the establishment of separate rates.

A project application submitted to EDA by a local government for a specially defined area must be accompanied by evidence that the unemployment data for that area has been confirmed by the State Employment Security Agency.

If, for any reason, a State Agency should advise an applicant that it is unable to provide unemployment rates for areas covered under this section and Section 2) above, a statement of the circumstances should be furnished the appropriate EDA Regional Office, which will contact EDA's Qualification Division in Washington (telephone 202-377-2710) for advice and assistance.

4) Indian Reservations

If an Indian tribe is unable to establish its three-month-average unemployment rate according to the procedures described above, it may submit to the appropriate EDA Regional Office such evidence as it can produce regarding unemployment conditions within its jurisdiction. Preferably, this would be in the form of a statement signed by an authorized official of the Bureau of Indian Affairs. However, if this cannot be obtained, the evidence should include the results of a study or survey showing labor force, employment and unemployment numbers, and unemployment rates for the three most recent consecutive months. The individuals or organizations carrying out the survey or study should be identified, and the methodologies and procedures followed should be described. This documentation should be submitted to EDA's Qualification Division in Washington, which will determine

the acceptability of the unemployment data submitted and advise the applicant and the Regional Office of its findings.

F. Types of Grants

The types of grants that are available to State and local governments under this program are:

1. Direct Grants

100 percent grants for local public works projects on which construction has not been started.

2. Supplemental Grants

- a. Grants to supplement other Federally funded public works projects, in the amount necessary to make the Federal share 100 percent of the project cost, provided that the other Federal funds are immediately available and that construction on the project has not been started owing to a lack of funding for the non-Federal share.
- b. Grants to provide all or any part of the required State or a local share (but not both shares) of the cost of a public works project for which financial assistance is authorized under the State or local law requiring such a contribution, provided that the financial assistance other than that being provided is immediately available and that construction on the project has not been started.

The guidelines and requirements set forth here apply to both direct and supplemental grants, unless otherwise specified.

G. Types of Projects

1. Eligible Projects

The types of projects eligible for funding under this program are:

- a. Construction (including demolition and other site preparation activities), renovation, repair, and other improvements related to public works projects that have a local orientation. Such local public works projects include, but are not limited to, municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

- b. Public works projects authorized by other Federal acts.

2. Ineligible Projects

The types of projects that are not eligible for funding under this program are:

- a. Projects that have as their principal purpose -- or permanent effect -- the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site). The primary purpose of this restriction is the environmental protection of the Nation's natural watercourses.

This prohibition refers, generally, to the alteration of the natural state of a watercourse, i.e., to those watercourses (or portions of watercourses) that have not been disturbed by man. Therefore, the construction of a new dam or the expansion of the capacity of an existing dam is prohibited, as is the construction of a new canal or the expansion of an existing canal, except one designated as an historic site.

Construction on natural watercourses that have already been diverted, dammed, and channelized would constitute an acceptable project if the final project result were the improvement of the natural flow of the entire watercourse. Thus, acceptable projects would include: dredging a previously diverted river; desilting an existing dam; temporarily diverting a river for the principal purpose of constructing a bridge; and constructing, reconstructing, or repairing a jetty in an area where beach erosion or storm damage has occurred.

- b. Projects on which construction is ongoing (i.e., on which a contract for construction has been awarded, notice to proceed or its equivalent has been issued or on-site labor has begun, whichever has occurred earlier).
- c. Projects requiring financial assistance in excess of \$5 million. However, in unusual circumstances, the Assistant Secretary may waive this requirement.
- d. Projects that will take more than two years to complete. This requirement may also be waived by the Assistant Secretary in unusual circumstances.

- e. Projects for which this program's funds would reduce, diminish, or replace funds specifically budgeted and/or committed for the project by the State, local government, Indian tribe, or other Federal agency.

H. Program Administration

1. Considerations

The following factors will be considered in the administration of this program:

- a. Unemployment, in both absolute numbers and concentration, is unevenly distributed in the country.
- b. Areas in some States do not have unemployment rates in the 70-30 proportions prescribed by the Act.
- c. There are large concentrations of unemployed persons in the major urban areas of the country.

2. Policy Implications

To account for these factors, the following policies will govern the administration of this program.

a. State Minimum Funding Level, Planning Allocations, or Ceiling(s)

- 1) Each Regional Office will observe, with respect to each State served by it, a State minimum funding level, planning allocation, or ceiling(s). The formula by which these levels will be established is as follows:

Subject to EDA administrative costs and statutory minimum amounts allocated to individual States by the Act, 65 percent of the appropriated funds will be set aside as planning allocations for individual States based on each State's share of the total national unemployed (i.e., the ratio between the number of unemployed workers residing in a State and the total number of unemployed workers in the Nation) averaged for the three most recent consecutive months; 35 percent of the funds will be set aside as planning allocations to individual States based on the relative severity of unemployment for each

State (i.e., the relationship between a State's unemployment rate and the national unemployment rate) averaged for the three most recent consecutive months.

Further, in accordance with statutory requirements, each State allocation, including that for the District of Columbia and for Puerto Rico, will not be less than 0.5 percent or more than 12.5 percent. For Guam, the Virgin Islands, and American Samoa, not less than 0.5 percent will be granted for all three.

- 2) It should be understood that the level assigned to each State is not intended to establish an entitlement to any minimum or maximum level of project assistance within the State (unless such is the statutory minimum or maximum). Rather, it is adopted to further the objective of insuring that consideration is given to the relative needs of various sections of the country.
- 3) One hundred and twenty days after the date on which funds are first apportioned for program assistance, and at any time thereafter, the Assistant Secretary may reconsider the State funding levels previously established and make such adjustments as are determined to be reasonable in achieving the purposes of the Act.

b. 70-30 Priority

The 70-30 requirement of the Act (discussed in Section E of these guidelines) will be met by totaling the funding of projects on a State level -- or regionally or nationally, if necessary.

- 1) First priority and expedited processing will be given to applications submitted from areas having an unemployment rate for the average of the three most recent consecutive months (for which data is available at the time of application) that is in excess of the national unemployment rate. Seventy percent of the funds appropriated for this program will be available for projects from these areas.
- 2) Second priority will be given to applications submitted from areas having an

unemployment rate for the average of the three most recent consecutive months (for which data is available at the time of application) in excess of 6.5 percent but less than or equal to the national average. Thirty percent of the funds appropriated for this program will be available for projects from these areas.

- 3) Third priority will be given to applications submitted from areas having an unemployment rate equal to or less than 6.5 percent. Applications from such areas will be approved if funds are available in the 30 percent priority level, or if funding of the proposed project is necessary to fulfill the minimum funding level required for each State.
- 4) Public works projects of general-purpose units of local governments within each of the above priorities will be given priority and preference.

3. Project Selection Procedure

a. Considerations

In line with the purposes and objectives of the Act, EDA's goal of choosing projects having the greatest potential for furthering these purposes and objectives, the relative importance of various factors in determining this potential, and the availability and consistency of data specified in the Act, the following project selection procedures have been adopted.

b. Project Selection Formula

The ranking procedure developed for selecting projects within each State's planning allocation uses those project and area factors that will contribute most to achieving substate equity (priority allocation of funds based on need) in the distribution of planning funds, and insures that the relatively more economically efficient projects (those having maximum impact on unemployment) are selected. Certain factors will be standardized in order to perform comparative analyses of projects within each State. Each factor has been assigned a weight to reflect its importance in the ranking procedures.

1) Basic Rank

The basic rank of a project will be determined by the following factors:

- a) The number of unemployed workers in the project area averaged over the three most recent consecutive months for which data is available at the time of application. An area characterized as having a high unemployment rate overall is generally characterized as having a high unemployment rate in the construction industry. Similarly, an area characterized as having a large number of unemployed overall is generally characterized as having a relatively large number of unemployed construction workers as a share of the overall unemployed. Therefore, this factor gives consideration to construction unemployment. This factor will constitute 30 percent of a project's basic rank.
- b) Severity and duration of unemployment, as measured by the unemployment rate prevailing in the project area averaged over the three most recent consecutive months for which data is available at the time of application. This factor will constitute 25 percent of a project's basic rank.
- c) The cost per person-month of employment, defined as the ratio of the total cost of the project to the total number of person-months of employment to be generated. It should be emphasized that supplemental assistance provided for under the Act will be considered as part of total project costs; the latter is defined as funds from all sources, whether Federal, State, or local. This factor will constitute 30 percent of a project's basic rank.
- d) The level of income prevailing in the project area. This factor will constitute 15 percent of a project's basic rank.

2) Additional Considerations

A project's basic rank will be increased if the project meets one or more of the following criteria:

- a) Exhibits potential for providing long-term benefits (e.g., provides a needed community facility). The basic rank of a project will be increased up to a maximum of 10

percent if it meets this criterion. The amount of increase will be determined by the nature and extent of the long-term benefit(s) to be provided by the project.

- b) Is sponsored by a general-purpose unit of local government. Projects meeting this criterion will have their basic rank increased by five percent.
- c) Relates to existing approved plans and programs of a local community development or regional development nature or promotes or advances longer range plans and programs. The basic rank of a project meeting this criterion will be increased by five percent.

3) Final Rank

The final rank of a project is to be determined by summing the basic rank and increases attributable to the additional considerations defined above.

c. Application of Project Selection Formula

1) Geographic Considerations

Projects will be ranked and assessed relative to other projects submitted from the same State until such time as the Assistant Secretary determines, pursuant to Section H.2.a.3. of these guidelines, that comparison of projects submitted from different States is required either to further the purposes and objectives of the Act or to comply with statutory requirements.

2) Priority Considerations

Within each State, projects submitted from areas with an unemployment rate exceeding the national average for the three most recent consecutive months for which data is available at the time of application will be ranked and compared only with projects submitted from other areas in this priority category.

Similarly, projects submitted by areas with an unemployment rate below the national average for the three most recent consecutive months will be ranked and compared only with projects submitted from other areas in the same priority category.

3) Project Selection

Within each State and priority category, projects will be selected on the basis of their final ranks until the State planning allocation for each priority category has been exhausted or until such time as the Assistant Secretary, pursuant to Section H.2.a.3 of these guidelines, determines that the remaining funds made available under the Act must be reallocated among the States.

The Agency may disapprove an application for a project when it is believed that the project construction activity will generate labor requirements in excess of those available among the unemployed in the project area. Further, for areas having large pools of unemployed labor, projects will be ranked; however, the Agency may decline applications of lower rank when the sum of project labor requirements exceeds the available supply of unemployed labor.

I. Application Procedures

1. Forms

An application form, developed for this program and available from EDA's Regional Offices and EDRs, is to be used for all proposed projects. Owing to the short time available for developing project applications, pre-application conferences for projects will not be held.

2. General Considerations and Requirements for Financial Assistance

- a. An applicant must provide EDA with satisfactory assurance that on-site labor can begin within 90 days of project approval. It is recognized that many Northern States could have difficulty in meeting this requirement, particularly during the winter months. This problem will be minimized by the following.
 - 1) The planning allocation established for each State will insure that the relative needs of the country are met, and that projects are competing with other projects within the same State, rather than with all projects in the Nation. This will eliminate unfair competition among States. It is expected that those States having the most severe seasonality problems will have projects that are funded later in the program.

- 2) Because in those States experiencing varying weather conditions the 90-day requirement could be seen as giving unfair advantage to "fair weather" areas, the definition of on-site labor will be interpreted liberally. That is, some on-site labor must begin within 90 days, with full-fledged construction capable of being started as soon as weather permits.
- b. An applicant must provide EDA with the following environmental information (except items (5) and (6) if such materials are not available and the applicant so certifies):
 - (1) those elements of the project that will impact the environment;
 - (2) the nature of the environment to be impacted;
 - (3) data on the expected environmental impact;
 - (4) alternatives to the proposed project;
 - (5) any environmental analyses previously conducted by local, State, or Federal agencies; and
 - (6) public reaction as evidenced, for example, in transcripts of local public hearings held on the proposed project.
 - c. An applicant must insure that plans, specifications, and estimates for projects are either complete or sufficiently complete so as to insure that on-site labor can begin within 90 days of project approval. Final plans and specifications will not be required for EDA review and approval except in unusual circumstances.
 - d. An applicant must provide EDA with satisfactory assurance that no person has been discriminated against or will be denied the benefit of the project on the grounds of sex, national origin, color, or race.
 - e. A project should relate to existing approved local plans and programs of a community or regional development nature -- e.g., OEDPs, Comprehensive Plans, HUD 701 Plans, EPA Areawide 208 Plans -- as applicable, and should advance long-range plans.
 - f. To the extent possible, at least 10 percent of the personnel hired for a project should be project area residents who had been unemployed for at least 30 days prior to being hired.
 - g. For a project involving a neighborhood or community within a larger jurisdiction that is eligible for priority assistance on the basis of the unemployment rate for this specially defined area, the project must directly benefit or provide employment for unemployed persons within that neighborhood

or community. However, it is not necessary that the project be located in that neighborhood or community -- only that it benefit or provide employment for unemployed area residents.

- h. For supplemental grants providing the non-Federal share of another Federally funded public works project, the applicant must obtain certification from the other agency involved in the project that: (1) the project is approved and funds are immediately available; (2) construction has not been started owing to the lack of the non-Federal share; and (3) on-site labor can begin within 90 days.
- i. For supplemental grants providing the State or local share of any State or local authorized public works project, the applicant must obtain certification from the State or local agency involved in the project that: (1) the project is approved and funds for one of the shares are immediately available; (2) construction has not been started; and (3) on-site labor can begin within 90 days.
- j. If a 100 percent direct grant application has been authorized and is pending under another Federal program(s), that application -- to be eligible for funding under this program -- must be withdrawn from the other program, and evidence of the withdrawal must accompany the application for EDA funding. In certain situations, as required by EDA, grant applications authorized and/or pending under another Federal program(s) must be reviewed -- and certifications obtained from the agency (agencies) involved -- concerning design, program, and technical standards.

3. Procedures

- a. An applicant will develop an application in conjunction with EDA's field organization and will submit the completed application to the appropriate EDA Regional Office.
- b. An application may be accepted only by the appropriate Regional Director, processed by the Regional Office, and approved by the Assistant Secretary. No application will be accepted unless funds have been appropriated and made available to the Agency.
- c. A modified A-95 clearinghouse procedure has been requested by EDA from the Office of Management and Budget. The procedure will be as follows. An applicant will be encouraged to submit its full application or notification of intent to apply to the appro-

priate clearinghouses as early as possible. Upon submission of an application to EDA, the applicant must certify that the full application has been submitted to the appropriate clearinghouses. EDA may begin processing the application upon its acceptance; however, the Agency will make no final decision to approve an application until 30 days after its acceptance, unless, of course, clearinghouse response is received before the 30 days have elapsed. Clearinghouse comments will be submitted directly to EDA, and EDA will consider such comments until processing of the application is completed. This procedure will be in effect for 90 days.

An applicant submitting an application after the first 90 days during which EDA is accepting applications will be expected to attach all State and areawide clearinghouse comments to the application, as required by Circular No. A-95. It should be noted that clearinghouses will often be able to provide technical assistance in the preparation of applications for assistance under this program.

4. Acceptance of Applications

The Regional Office will begin the processing of an application after it has been determined that the application is eligible for consideration, has been properly prepared, and contains all necessary material. The Regional Office will notify the applicant of one of the following:

- . The application has been received for processing.
- . The application contains deficiencies that must be corrected. After the deficiencies have been corrected, the application may be resubmitted to the Regional Office. Upon resubmission, the application will be treated as a first submission.
- . The application is ineligible for funding, stating the specific reason (e.g., ineligible project type or applicant).
- . There is a need for comment by other Federal agencies.
- . Although the project is eligible, all funds have been expended, the State's maximum funding level has been met, or no funds remain for the priority group.

5. Final Determination

After the Regional Director has received and begun processing the application, EDA has 60 days within which to make a final determination on approving or denying the project proposal. If, after 60 calendar days, the applicant has

not been advised regarding final determination, the project will be considered approved.

EDA, to comply with the Local Public Works Capital Development and Investment Act, the regulations governing this Act, and these guidelines -- particularly in the case of areas in other than the 70 percent priority group -- may disapprove applications without prejudice. When this is done, EDA will so notify the applicant promptly. Applications that have been disapproved without prejudice automatically will be considered as resubmitted for further processing, unless the applicant withdraws the application in writing.

J. Exclusions

To meet the time frames mandated by the Act, delays in the initiation of construction of projects must be avoided. Therefore, projects normally will not be approved if it appears that any of the following conditions might result in delays that would prevent construction from being initiated within 90 days of project approval:

- . Clear title to the project site has not been obtained.
- . Condemnation or relocation actions are involved.
- . Information contained in assurances for plans and specifications is not sufficient.

K. Environmental Considerations

1. National Environmental Policy Act

Because the Local Public Works Capital Development and Investment Act requires that EDA process applications within 60 days of their acceptance, EDA will not be able to prepare environmental impact statements for those projects that may significantly affect the quality of the human environment. However, EDA will, to the fullest extent possible within the allotted 60 days, analyze a proposed project's potential environmental impacts and give appropriate consideration to these impacts in making its final decision.

The environmental impact analysis will include: (1) the identification of any potential major adverse environmental impacts; and (2) when feasible, the development of mechanisms and measures to avoid or mitigate such impacts. EDA will deny an application if, after consideration of the benefits of a project against any environmental costs, the Agency concludes that

the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. Unacceptable adverse impacts may include, but are not limited to, the following:

- . The addition to the environment of a pollutant that will violate or increase an existing violation of a Federal, State, or local standard covering such a pollutant.
- . The deterioration of an environmental resource declared to be of national significance, such as a property listed on or eligible for the National Register of Historic Places.
- . The major disruption, or conversion to another land use, of important environmental resources within the surrounding area, particularly those resources in scarce supply.
- . The existence of substantial controversy among government agencies or residents/users of the project area concerning the acceptability of the project's environmental impact.

The time frame for application review mandates that the Regional Offices identify early in the application stage those projects having substantial environmental costs and/or unacceptable adverse impacts. Applications that are inconsistent with the environmental policies described above are discouraged.

2. National Historic Preservation Act

In compliance with the National Historic Preservation Act, all project applications must be accompanied either by a statement of the State Historic Preservation Officer's (SHPO) views on the project or by evidence that the SHPO was provided with a detailed project description and a request for comment prior to submittal of the application.

EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation, as required. Even though completion of the coordination process may not be possible, the results of the process will be used by EDA in making the final decision on the project.

3. The Wild and Scenic Rivers Act

As required, EDA will coordinate with either the Department of the Interior or the Department of Agriculture regarding the requirements of the Wild and Scenic Rivers Act.

L. Compliance

In addition to the requirements of the Local Public Works Capital Development and Investment Act, projects must be in compliance with the following:

- . 15 CFR Subtitle A, Part 8 Civil Rights and Title VI of the Civil Rights Act of 1964.
- . The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 13 CFR Part 310.
- . The National Flood Insurance Program and 13 CFR 309.15.
- . The National Environmental Policy Act of 1969, as amended.
- . The Archeological and Historic Preservation Act.
- . The Federal Water Pollution Control Act, as amended.
- . The National Historic Preservation Act.
- . The Clean Air Act.
- . The Fish and Wildlife Coordination Act of 1975.
- . The Wild and Scenic Rivers Act, as amended.
- . The Endangered Species Act of 1973.
- . OMB Circular A-95 (modified procedure for this program).
- . 13 CFR 309.14 Design, construction and alteration of buildings to accommodate the physically handicapped.
- . 13 CFR 309.11 Special purpose units of local governments.
- . 13 CFR 309.26 Project modification.
- . The Davis-Bacon Act.
- . Part E of the Omnibus Safe Streets and Crime Control Act of 1968, as amended (for detention facility projects).
- . 13 CFR 314 Property Management.
- . The Contract Work Hours and Safety Standards Act.

- . The Intergovernmental Cooperation Act of 1968.
- . The Copeland Anti-Kickback Act.
- . 13 CFR 309.9 Records and Audits.
- . 13 CFR 309.27 Land Use near Federal Air-fields.
- . Executive Order 11246, of 1965, Equal Employment Opportunity.
- . All other existing or further acts affecting this program, including State and local acts.

M. Project Costs

1. Eligible Costs

The types of project costs that are eligible for funding under this program are:

- a. Construction and facility improvement costs.
- b. Uniform Relocation Assistance expenses and payments.
- c. Costs for capital equipment not included in the construction contract.
- d. Interest on interim construction financing.
- e. Costs for completing and updating plans, specifications, and estimates -- where either architectural design/preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project.
- f. Other A/E costs such as inspection fees and test borings.
- g. Legal and audit costs.

2. Ineligible Costs

The types of costs that are not eligible for funding under this program are:

- a. Costs for acquiring real property -- acquisition of land, structures, and rights-of-way, including costs incidental to acquisition of land.
- b. Maintenance costs -- costs incurred for any necessary repairs or upkeep of property that neither add to the permanent value of

the property nor appreciably prolong its intended life, but rather keep it in an efficient operating condition.

- c. Costs for plans, specifications, and estimates for projects incurred prior to receipt of an application by EDA. Such costs will not be reimbursed by EDA, nor will costs incurred subsequent to receipt of applications unless the project is approved.
- d. Cost overruns. This means that, regardless of the type of grant (100 percent direct or supplemental), no additional funding will be extended once a project is approved. Any cost overrun incurred on a project must be funded by the grantee.

N. Construction Management Procedures

1. Processes

The following processes are to be followed in the implementation of projects funded under this program:

- a. Each grantee will be provided with a copy of "Design and Construction Guidelines for the Local Public Works Capital Development and Investment Act," which details construction procedures and requirements.
- b. EDA will monitor construction of 100 percent direct grant projects and projects for which the grant is supplemental to State or local funding.
- c. EDA will transfer to other Federal agencies the supplemental grant funds for the projects of those agencies. The other agencies will then administer the grant, monitor construction, and provide EDA with assurance that program requirements of the Local Public Works Capital Development and Investment Act have been met.
- d. Construction on projects normally will be contracted for through competitive bidding.
- e. EDA will allow simultaneous design and construction of projects when this is necessary for the applicant to meet the requirement that on-site labor begin within 90 days of project approval. A description of the procedures to be followed in such cases will be supplied to the grantee by the appropriate EDA Regional Office.
- f. Any cost underrun incurred on a local public works project may be used for additional construction, if approved by EDA. If an

underrun cannot be used for this purpose, the amount of the underrun will be returned to EDA.

2. Requirements

The following major construction management requirements are to be followed in the implementation of each project approved under this program. Detailed instructions for these and other requirements will be supplied to the grantee upon project approval.

- a. A Project Management Conference normally will be held. This conference is to be attended by, but not limited to, EDA representatives, the grantee, his designer, and his attorney to discuss design and construction requirements.
- b. The grantee must obtain EDA approval of A/E and related planning services that are found to be required after the project has been approved.
- c. The grantee must insure that adequate construction surveillance and inspection are carried out by a fully qualified inspector.
- d. The grantee must provide to EDA regular reports on design and construction progress and on the status of all advanced grant funds.
- e. The grantee must provide to EDA evidence that all necessary permits, certifications, land titles, rights-of-way, easements, etc., needed to carry out the project have been obtained.
- f. The grantee must establish a financial management system that meets FMC 74-7 standards.
- g. The grantee must insure that bidding and contract award procedures are accomplished in accordance with FMC 74-7 standards.
- h. The grantee must obtain EDA concurrence on any major changes affecting the project as approved by EDA.
- i. During project construction, the grantee must provide to EDA monthly reports and a final report indicating number of employees, person-months of work, and certain characteristics of the individuals employed on the project.
- j. EDA normally will make disbursements through the line of credit procedures outlined in the Department of the Treasury Fiscal Requirements Manual.

SUBCOMMITTEE RECESS

Senator PASTORE. Anything further?

[No response.]

Senator PASTORE. We recess until further call of the Chair. The record will be open for several days in case there are any communications from the public

Thank you very much, Mr. Eden.

Mr. EDEN. Thank you, Mr. Chairman.

[Whereupon, at 2:20 p.m., Wednesday, August 25, the subcommittee was recessed, to reconvene at the call of the Chair.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND CERTAIN OTHER INDEPENDENT AGENCIES APPROPRIATIONS

THURSDAY, AUGUST 26, 1976

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:05 a.m., in room 1318, Everett McKinley Dirksen Office Building, Hon. William Proxmire (chairman) presiding.

Present: Senators Proxmire and Bellmon.

ENVIRONMENTAL PROTECTION AGENCY

PUBLIC WORKS EMPLOYMENT ACT OF 1976—TITLES II AND III

STATEMENT OF ALVIN L. ALM, ASSISTANT ADMINISTRATOR FOR PLANNING AND MANAGEMENT

ACCOMPANIED BY:

GARY DIETRICH, DIRECTOR, PROGRAM AND MANAGEMENT OPERATIONS, OFFICE OF WATER AND HAZARDOUS MATERIALS

RICHARD REDENIUS, DEPUTY ASSISTANT ADMINISTRATOR FOR RESOURCES MANAGEMENT, OFFICE OF PLANNING AND MANAGEMENT

G. THOMAS FRIEDKIN, DIRECTOR, BUDGET OPERATIONS DIVISION, OFFICE OF PLANNING AND MANAGEMENT

OPENING REMARKS OF SENATOR PROXMIRE

Senator PROXMIRE. The subcommittee will come to order.

The Senate Appropriations Subcommittee on HUD-Independent Agencies is meeting this morning to receive testimony from officials of the Department of the Treasury and the Environmental Protection Agency, regarding appropriations for the implementation of titles II and III of the Public Works Employment Act of 1976.

We are pleased to have with us from the Department of the Treasury, Hon. Warren Brecht, Assistant Secretary for Administration, and from the Environmental Protection Agency, Mr. Alvin L. Alm, Assistant Administrator for Planning and Management.

SYNOPSIS OF TITLES II AND III

Before we begin today's hearings with the testimony from Assistant Administrator Alm of EPA, a brief synopsis of titles II and III might be useful.

Under title II of the so-called Jobs bill, an antirecession financial assistance fund has been established to provide emergency Federal assistance to State and local governments hard hit by recessionary pressures, in the form of general payments to State and local governments, beginning July 1, 1976, and covering five calendar quarters.

The legislation provides for an authorization of \$125 million for each calendar quarter that is triggered when the national seasonally adjusted unemployment rate reaches 6 percent, plus an additional sum of \$62,500,000 in each quarter for each one-half percentage point above the 6 percent unemployment level. One-third of the payments would go to eligible States and two-thirds would be for eligible units of local government, a total of \$1.250 million overall.

The House committee has proposed that the full \$1.25 million be appropriated, with \$312,500,000 allocated for the transition quarter and the balance of \$937,500,000 targeted for obligation in fiscal year 1977.

Title III of the jobs bill authorizes \$700 million for additional waste treatment construction grants in fiscal 1977 to be distributed to 37 States and territories that did not previously receive the full amount to which they would have been entitled under an allocation formula based on a 1974 needs survey.

The 1974 formula was not used in February, 1975 to distribute \$9 billion in previously impounded funds. Thus, the funding to be provided here is meant to partially redress an inequity that arose from the distribution of previously authorized funding on the basis of an outmoded formula. In other words, this title of the Public Works Employment Act is directed toward ironing out inequities in the formula for the construction grant program rather than creating immediate employment opportunities for those seeking jobs. In fact, in testifying before the House subcommittee, Mr. Richard Redenius, EPA Deputy Assistant Administrator for Resources Management of the Office of Planning and Management, stated, and I quote:

The fact that we have such massive unobligated balances to use over the next 15 months, coupled with this extremely cumbersome specific State allocation, makes it virtually impossible in the time frame we are talking about to use these funds as the Congress intends.

The House has recommended an appropriation of \$200 million for title III, which is \$500 million less than the authorized amount, but represents the Environmental Protection Agency's estimate of the actual amount that could be obligated in fiscal year 1977.

Mr. Alm, you may proceed with your statement. You may summarize your remarks if you wish, with the knowledge that your statement will be printed in the record in full.

Mr. ALM. Mr. Chairman, and members of the committee, I appreciate the opportunity to appear before you to discuss particularly the provision of the Public Works Employment Act of 1976, which authorizes the appropriation of \$700 million for waste-water treatment plant construction grants.

DELAY IN FILLING JOBS

First of all, the purpose of the act, as I understand it, is to create jobs and reduce unemployment. However, the appropriation of these funds will not provide jobs immediately. In the main, jobs created by this program would not come on line for at least 9 to 15 months from the time funds are appropriated.

Senator PROXMIRE. You say 9 to 15 months?

Mr. ALM. Yes.

Senator PROXMIRE. Your prepared statement says 12 to 18 months.

Mr. ALM. That is correct. This is a change in the statement.

Senator PROXMIRE. What is the reason for the change?

Mr. ALM. I took a closer look at the expected obligations. Most of the States that would be eligible for funds would run out of funds in the second quarter.

If one assumes that a State ran out of funds early in the second quarter, and that perhaps it takes a couple of months to get an application approved by the EPA, and 3 months from that approval to an obligation, that figure, I think, is roughly 8 or 9 months.

Nine months would be an optimistic estimate.

Getting back to the program, under discussion, a large number of the jobs will not become available until even later than 9 to 15 months.

UNOBLIGATED BALANCES ON CURRENT PROGRAM

Second, under our current program, we have an unobligated balance of nearly \$7 billion available for use before September 30, 1977. In comparison, we obligated only \$4.1 billion in 1976. The majority of the States will still have funds for this program, including most of the States with serious unemployment problems.

INEQUITIES OF ALLOCATIONS

Although the act as a whole is primarily intended to reduce unemployment, the main purpose of title III is to correct inequities perceived by Congress in previous allocations of construction grant funds. The \$9 billion made available to the States in March 1975 was allotted on the basis of needs surveys conducted in 1971 and 1973.

A subsequent needs survey made in 1974 showed that 37 States would have received more funds from a formula based on the more recent data, plus 990 population estimates. The Talmadge-Nunn bill originally sought to redistribute the \$9 billion in accordance with the more recent formula.

It was revised to increase those States which would have gained from the redistribution without reducing States which would have lost. This would have required an additional \$1.4 billion, an amount which was subsequently reduced to \$700 million in the final version of the Public Works Employment Act.

The resultant effect of the Talmadge-Nunn formula is to exclude many of the States with serious unemployment problems from receiving additional funds. None of the New England States, where unemployment averages nearly 9 percent, would receive funds.

Other States with high unemployment which would receive no additional funds are New York, New Jersey, California, and Michigan. In fact, of the 10 States with the highest unemployment, only 2, Alaska and Florida, would receive significant funds under title III of this act.

STATES RECEIVING FUNDS FROM NUNN-TALMADGE AMENDMENT

On the other hand, some States with relatively low unemployment but which are deserving under the Talmadge-Nunn criteria would receive substantial sums. I have a complete tabulation of the \$700 million allocation for the record.

[The information follows:]

STATES WHICH RECEIVE FUNDS FROM THE NUNN-TALMADGE AMENDMENT

State:	
Puerto Rico	\$8,540,000
Maryland	10,570,000
West Virginia	49,980,000
Alabama	34,300,000
Florida	20,790,000
Georgia	39,900,000
Kentucky	18,900,000
Mississippi	18,550,000
North Carolina	46,550,000
South Carolina	20,440,000
Tennessee	21,070,000
Wisconsin	18,550,000
Arkansas	26,180,000
Louisiana	24,570,000
New Mexico	7,910,000
Oklahoma	25,480,000
Texas	129,220,000
Iowa	2,590,000
Kansas	20,300,000
Missouri	10,290,000
Nebraska	5,390,000
Colorado	21,280,000
Montana	4,410,000
North Dakota	7,420,000
South Dakota	6,230,000
Utah	13,020,000
Wyoming	6,370,000
Arizona	32,830,000
Hawaii	4,200,000
Nevada	910,000
American Samoa	1,120,000
Trust Territory of Pacific Islands	6,860,000
Guam	2,100,000
Alaska	6,370,000
Idaho	7,420,000
Oregon	1,960,000
Washington	17,430,000
Total	700,000,000

APPROPRIATION VERSUS DISTRIBUTION

When the appropriation was considered in the House, language was added to the bill designed to appropriate only \$200 million, but to have it distributed to the States on the basis of a \$700 million entitlement. This was done because EPA had estimated that, due to unobligated balances of currently available funds in many of the States eligible for grants under title III of this bill, only about \$200 million of these funds was likely to be obligated in fiscal year 1977.

I can appreciate the motive behind this action. There was a desire not to appropriate a great deal of money which would not be used for many months, since the purpose of the act is to stimulate jobs right now. However, I must object to the House approach because it produces a number of administrative problems which will result in frustration and misunderstanding at the State and local level.

For these reasons, we do not believe that this bill is the appropriate vehicle for providing additional funds for the wastewater treatment program.

Mr. Chairman, this completes my statement. I will be glad to answer any questions you may have.

I might add at this point that in answering questions, we are dealing with extraordinarily complex problems. All of the answers will be based on a number of assumptions about what States and communities will do.

So I will try and answer questions as specifically as possible, but understanding there are complex assumptions underlying many of the answers.

OBLIGATION OF PROPOSED \$200 MILLION

Senator PROXMIRE. Mr. Alm, as you indicated in your testimony, the House has provided only \$200 million of the \$700 million authorized for the Nunn-Talmadge program.

As you stated, this was based on your estimate that only \$200 million could be obligated in fiscal 1977. The language in the House-passed bill states that this \$200 million could only be distributed to States "for which funds currently authorized are no longer available."

But it seems to me that even following this standard there is very little assurance that even the \$200 million would be obligated in fiscal 1977. After a State gets its money, it must then allocate it to a community.

It could take individual communities more than 12 months to obligate the funds after this allocation. Isn't this true? That would mean all of the funds would not be obligated in 1977.

Mr. ALM. It might help to go into a little background and then get back to the question itself.

We estimate that 27 States will have obligated all of their share of the current \$7 billion before the end of fiscal year 1977. Of these States, 21 will be eligible under title III of the Public Works Employment Act of 1976. These 21 States are entitled to about \$309 million entitlement.

We estimate that these States will only be able to obligate \$200 million, of this \$309 million entitlement. We assume that these States that run out of money will have projects more or less ready to go.

Therefore, it is our estimate that under the House approach we could probably obligate somewhere around \$200 million. But I might add, there are a great many administrative complexities.

First, the House bill would more or less allocate \$700 million, and yet only \$200 million would be available. This could result in some States moving ahead quickly and precluding other States from using their share of the \$200 million.

It is our opinion that the House approach would be almost unworkable, from EPA's point of view.

PROPOSED ALLOTMENT VERSUS PROPOSED APPROPRIATION

Senator PROXMIRE. What do you mean when you say some States would foreclose others by moving ahead rapidly? Give me an example. Let's take State A and State B. Say State A moves ahead and uses the funds. How would that prevent State B—

Mr. ALM. As I indicated, there are about \$309 million worth of projects that could move ahead in States that run out of money, and yet only \$200 million would be available for obligation.

If our estimates were incorrect, or if there developed an incentive to move ahead just to use these funds, it would be possible for a number of States to use the \$200 million, while the other \$109 million would not be available to the States.

Senator PROXMIRE. What can we do to correct that?

Mr. ALM. Well, as you know, the administration opposed this legislation.

Senator PROXMIRE. I know that. So did I. I voted to sustain the President's veto. But the fact is that the Congress is going to pass this appropriation, and it will probably pass over any Presidential veto.

Mr. ALM. If the Congress were to move ahead, we would recommend that the amount appropriated be the same as the amount the Congress allotted to the States.

Senator PROXMIRE. In other words, you believe we should appropriate \$700 million if we are to appropriate anything?

Mr. ALM. Right. We could then allot \$700 million to the States and let them obligate it. If you appropriate \$300 million, then we allot \$300 million.

Senator PROXMIRE. How about \$309 million?

Mr. ALM. The problem is that you would still have to allocate the funds. We have, obviously, made an estimate of States that are going to run out of money but I am sure you would not receive unanimous support in terms of the States.

I strongly urge, whatever the number chosen, that the same amount be appropriated as will be allocated.

Senator PROXMIRE. If you get \$700 million, you can go right ahead?

Mr. ALM. And use the formula, that is correct.

OUTLAYS AGAINST \$200 MILLION

Senator PROXMIRE. Even if the entire \$200 million the House provided under title III were obligated in fiscal 1977, does it follow that jobs would be created in the same fiscal year?

It seems to me that there has traditionally been a long pause between the date funds are obligated under the wastewater treatment plant construction grant program and the time substantial outlays occur. Thus, the jobs associated with these outlays might not be created for 2 or 3 years. Isn't this correct?

Mr. ALM. Well, as I indicated in my statement, in the main no significant job creation would occur for about 9 to 15 months.

Senator PROXMIRE. That seems optimistic.

Mr. ALM. That is when you just begin to initiate the creation of jobs. On the average, it takes about a year before any significant job creation would occur.

Senator PROXMIRE. I am talking about the period that elapses between the time funds are obligated—9 to 15 months—and the time you actually have outlays occurring and jobs created.

Mr. ALM. Well, the obligations would occur somewhat earlier. But I might give you our estimate of outlays. We estimate that if we obligate \$200 million in fiscal year 1977, the Federal outlays would only be \$50 million and the State share would bring it up to \$70 million.

So in terms of creation of jobs in fiscal year 1977, this title would not create a significant number of jobs.

Senator PROXMIRE. So here you have a \$700 million program, and if the entire \$200 million the House approved were provided—only two-sevenths of the amount authorized, 37-some percent—you would only get \$50 million worth of jobs or, in effect, less than 10 percent of the total authorization. That would be true even if the whole \$700 million were appropriated.

Mr. ALM. That is correct. We estimate that the \$700 million would create 40,000 jobs over the life of the program. The \$200 million would create 10,000 jobs. Either way, we estimate the number of jobs created in 1977 at about 5,500 jobs.

STATES ESTIMATE OF OBLIGATIONS

Senator PROXMIRE. As you know, Mr. Alm, waste treatment construction funds are not considered to have been obligated until a local project has been approved by EPA. Yet States allocate these funds to local communities as soon as they receive their allotment from EPA.

As I indicated, it could then take a local community 12 months or more to receive all necessary approvals—to process the papers, in other words. The States tell us that they could allocate the full \$700 million to local communities and that a good portion of this would be obligated within 12 months.

How do you respond to this argument?

Mr. ALM. Well, I think there are two points that need to be made. First, we are assuming that any new funds made available under title III would not begin the obligation process until the \$7 billion has been obligated. The States assume, even though they have unobligated balances, that they will move ahead. That assumption, we have not made in our estimate.

There is nothing in our history to indicate that funds could be obligated that quickly. If one looks at the history of the waste treat-

ment grant program, one finds that there have been real difficulties in obligating funds for projects in a timely manner, at least in as timely a fashion as we would hope.

For example, between fiscal year 1975 and 1976, we were only able to increase our obligations from \$3.6 billion to \$4.1 billion. The problem is that with large unobligated balances that still need to be obligated, combined with any new funds, there would be a tremendous impact on the ability of the States to push these projects through meeting requirements of the Federal Water Pollution Control Act.

As I indicated before, about \$200 million would be the best estimate we could make as to the amount which would be obligated.

ADDITIONAL STAFF REQUIREMENTS

Senator PROXMIRE. The bill passed by the House contains \$800,000 to fund an additional 40 positions for carrying out the title III program. EPA testified before the House committee that this would be needed if the full \$700 million were provided, but that if there were a reduction in grant funds, staffing could be reduced proportionally.

What do you think you would need to carry out a \$200 million program?

Mr. ALM. Mr. Chairman, the estimate for the \$200 million program is the same as for the \$700 million program, the reason simply being that our estimates are based on total amount of obligations we have to make. What the House attempted to do was to appropriate no more than could be obligated. The work load EPA would face would be the same in either case.

Senator PROXMIRE. You would need the \$800,000 to administer the full \$700 million. Suppose the committee were to reduce the 40 additional positions? Would you still need the 40 additional positions, even though you were cut to \$200 million by the House?

Mr. ALM. The important figure, and the figure on which we based our estimate, was the level of obligations. We estimated before the House that if \$700 million were allotted, \$200 million would be obligated.

The House bill assumes that we will obligate \$200 million by pinpointing the funds to those States that run out of money, but in both cases the obligation level is the same.

Senator PROXMIRE. Senator Bellmon?

Senator BELLMON. I have no questions, Mr. Chairman.

Senator PROXMIRE. Thank you very much.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF HON. WARREN F. BRECHT, ASSISTANT SECRETARY FOR ADMINISTRATION

ACCOMPANIED BY

JEANNA D. TULLY, DIRECTOR, OFFICE OF REVENUE SHARING
WILLIAM H. SAGER, CHIEF COUNSEL, OFFICE OF REVENUE SHARING

KENT A. PETERSON, SPECIAL ASSISTANT TO THE UNDER SECRETARY

DELBERT D. MATHESON, JR., BUDGET OFFICER, OFFICE OF THE SECRETARY

ARTHUR D. KALLEN, DIRECTOR, OFFICE OF BUDGET AND PROGRAM ANALYSIS

DUDLEY YOUNG, ASSISTANT COMMISSIONER, OFFICE OF MANPOWER STRUCTURE AND TRENDS, BUREAU OF LABOR STATISTICS

DEPARTMENT RESPONSE TO ENACTMENT OF TITLE II

Senator PROXMIRE. We will now hear from Mr. Brecht of the Treasury, Assistant Secretary for Administration for the Treasury, to be accompanied by Ms. Jeanna Tully; William H. Sager; Kent Peterson; Delbert Matheson; Arthur Kallen; Dudley Young.

Mr. Brecht, you have a nice, concise, three-page statement. Go right ahead.

Mr. BRECHT. Would you like me to read the whole thing?

Senator PROXMIRE. Whatever you would like to do. If you could condense it, we would appreciate it.

SUMMARIZED STATEMENT

Mr. BRECHT. Mr. Chairman, and members of the subcommittee, I appreciate the opportunity to come before you today to describe the Treasury Department's response to the enactment of title II of the Public Works Employment Act of 1976.

The Department has kept itself informed on the progress of this legislation through the many months of deliberations on this matter.

Mr. Chairman, I am sure you can understand that it has not been possible, prior to enactment of this program, for the Treasury to expend any great portion of its resources on planning for its administration.

Nevertheless, during the interval since the law was enacted, the Treasury Department has attempted to set forth the steps which we will have to take to meet our responsibilities. This effort has included identifying issues of interpretation of the law, discussing these issues

with congressional staff, developing a possible timetable for making payments, and estimating the resources needed to properly execute the provisions of the antirecession aid program.

We are still seeking clarification of several provisions of the law, a number of which relate to the allocation of funds.

Before any antirecession aid could actually be paid, the Treasury Department would need to define and obtain unemployment data from the Bureau of Labor Statistics, provide interim regulations, make allocations, draw up and distribute assurance forms and explanatory materials, and receive and process recipient assurances.

It should be noted that title II clearly requires that governments provide a number of assurances to the Secretary of the Treasury before being eligible for participation in this assistance program.

The subcommittee should also be aware that the Department of the Treasury is currently informed by the Labor Department that complete first and second quarter 1976 unemployment data will not be available for our use until September 10. This data, of course, is one of the key elements required by the act to make the payment for the quarter beginning July 1, 1976.

The point of the comments, Mr. Chairman, is that our Department has a lot of work to do before we can properly make payments under the provisions of title II of the Public Works Employment Act.

The Treasury Department has decided to delegate the operational responsibilities for antirecession aid to its Office of Revenue Sharing. Since this program has many similarities to general revenue sharing, this appeared to us to be the most efficient and economical approach.

There are some important differences. Bearing in mind these differences with general revenue sharing, the Treasury will seek to administer the new program in a manner which results in as little cost and difficulty as possible to State and local governments and to the Federal Government. We have, of course, pursued a similar goal in our administration of general revenue sharing.

Mr. Chairman, should the Congress now appropriate the funds for title II of the Public Works Employment Act, some additional resources will be required in the Office of Revenue Sharing to carry out its new responsibilities.

The Congress seems to have contemplated a form of Federal assistance which is to be distributed in a largely automatic fashion. In other words, recipient States and communities would have to provide and fulfill certain assurances, provide proper reports, meet certain restrictions on use of funds, qualify in terms of the provisions of the formula, and, if they are townships, perform substantial governmental services.

PREPARED STATEMENT

Mr. Chairman, I would like to submit the full statement for the record at this point.

We will be happy to answer any questions you or Senator Bellmon may have.

[The statement follows:]

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to describe the Treasury Department's response to the enactment of Title II of the Local Public Works Employment Act of 1976.

To begin with, the Department has kept itself informed on the progress of this legislation through the many months of deliberations on this matter. We earlier analyzed the allocation formula as well as the administrative requirements associated with the Antirecession Assistance program created by Title II for purposes of helping to define the Administration's position.

Mr. Chairman, I am sure you can understand that it has not been possible prior to enactment of this program, for the Treasury to expend any great portion of its resources on planning for its administration. This situation still prevails to a considerable extent and will continue until we have an appropriation of funds for payments and administrative expenses.

Nevertheless during the interval since the law was enacted, the Treasury Department has attempted to set forth the steps which we will have to take to meet our responsibilities. This effort has included identifying issues of interpretation of the law, discussing these issues with Congressional staff, developing a possible timetable for making payments, and estimating the resources needed to properly execute the provisions of the Antirecession aid program.

We are seeking clarification of several provisions of the law - a number of which relate to the allocation of funds. For example:

- How are we to interpret the requirement that township recipient governments "perform substantial governmental functions" to be eligible for funds?
- How is the State and local economization assurance required by the Act to be made operational?

Before any Antirecession aid could actually be paid, the Treasury Department would need to define and obtain unemployment data from the Bureau of Labor Statistics, provide interim regulations, make allocations, draw up and distribute assurance forms and explanatory materials, and receive and process recipient assurances.

It should be noted that Title II clearly requires that governments provide a number of assurances to the Secretary of the Treasury before being eligible for participation in this assistance program. These relate to such aspects as reporting, accounting, auditing, and nondiscrimination. The legislation requires that the Secretary issue regulations outlining what these assurances entail within ninety days of its effective date.

The Subcommittee should also be aware that the Department of the Treasury is currently informed by the Labor Department that complete first and second quarter 1976 unemployment data will not be available for our use until September tenth. This data is required by the Act to make the payment for the quarter beginning July 1, 1976.

The point of the comments, Mr. Chairman, is that our Department has a lot of work to do before we can properly make payments under the provisions of Title II of the Local Public Works Employment Act.

The Treasury Department has decided to delegate the operational responsibilities for Antirecession aid to its Office of Revenue Sharing. Since this new program has many similarities to General Revenue Sharing, this appeared to us to be the most efficient and economical approach to its proper administration.

There are some important differences, however, between the revenue sharing and Antirecession Assistance programs in terms of funding mechanisms, formula data, the allocation procedure, governmental eligibility, assurances, nondiscrimination standards, Davis-Bacon requirements, use restrictions, and reporting. Bearing in mind these differences with General Revenue Sharing, the Treasury will seek

to administer the new program in a manner which results in as little cost and difficulty as possible to State and local governments and to the Federal Government. We have, of course, pursued a similar goal in our administration of General Revenue Sharing.

Nonetheless, Mr. Chairman, should the Congress now appropriate the funds for Title II of the Local Public Works Employment Act, some additional resources will be required in the Office of Revenue Sharing to carry out its new responsibilities.

The Congress seems to have contemplated a form of Federal assistance which is to be distributed in a largely automatic fashion. Recipient States and communities would have to provide and fulfill certain assurances, provide proper reports, meet certain restrictions on use of funds, qualify in terms of the provisions of the formula, and, if they are townships, "perform substantial governmental services." In other words, there would be no application procedures as are generally associated with categorical aid programs.

Mr. Chairman, I thank you for the opportunity to come before you today and would be happy to answer any questions you or the Subcommittee may have.

USE OF ANTIRECESSION ASSISTANCE FUNDING

Senator PROXMIRE. Let me raise a hypothetical question with you regarding the use to which antirecession assistance funding can be put. Let's assume that a city has recently concluded labor negotiations with local public employee unions. The final agreement calls for a cost-of-living increase, but since the city has no more funds for salaries, workers with little seniority will have to be laid off to free the funding to pay these higher salaries.

In this situation, would the city be allowed to use antirecession assistance to pay for the salary increase, thus allowing workers that would otherwise be laid off to continue in their municipal jobs?

Mr. BRECHT. It is my understanding; yes.

Senator PROXMIRE. They would be allowed to pay the higher salaries?

Mr. BRECHT. Yes. Now, I know it is subject to some debate. However, there is nothing in the law to prevent this from happening.

Senator PROXMIRE. How about a situation where the city previously could not provide salary increases but now intends to use their entire allotment for salary increases and nothing else, no layoffs are involved, the city simply wants to use Federal dollars to increase salaries, would this be permissible?

Mr. BRECHT. I guess, Mr. Chairman, the answer is "Yes," to that, also, particularly if it is a part of a negotiated labor settlement. They could anyway, subject to the provision that the workers to whom these salaries were being paid were clearly providing basic services to the constituents in that particular community.

Senator PROXMIRE. So, in effect, these funds would be distributed simply to provide higher salaries for municipal employees even though no jobs were created at all?

Ms. TULLY. Mr. Chairman, this would not necessarily be the case.

Senator PROXMIRE. I am saying it might under some circumstances be the case.

Ms. TULLY. Yes; we find nothing, on advice of our counsel, that would prohibit payment of salaries, and the law does speak to the maintenance of basic services for the people of the States. That is the way the law is stated.

Mr. BRECHT. I would certainly hope that in the process of passing this law and carrying it out, that a great majority of the funds would be used to create jobs.

AVAILABILITY OF DATA FROM BUREAU OF LABOR STATISTICS

Senator PROXMIRE. That is certainly the clear intent of the Congress. There is no question about it.

As I am sure you can appreciate, a great many Members of Congress are extremely interested in the amounts that will be provided to cities in their districts or States on the basis of unemployment rates. The first payments will be based on unemployment rates for the first quarter of calendar 1976.

In testimony before the House, Mr. Peterson agreed with Congressman Boland that this data will be available in the middle of August from the Bureau of Labor Statistics.

Now you tell us, Mr. Brecht, that the information will not be available for your use until September 10, more than 5 months after the first quarter has ended. What is the reason for this delay?

Mr. BRECHT. I would like to defer to the representative from the Labor Department, Mr. Dudley Young.

Senator PROXMIRE. What is your title at the Labor Department?

Mr. YOUNG. I am Dudley Young, from the Bureau of Labor Statistics; Assistant Commissioner for Employment Structure and Trends.

The Bureau of Labor Statistics has already supplied data for the CETA package of prime sponsors and major labor market areas to ORS. However, more detailed data will be available for a July reference date by about the middle of September.

Senator PROXMIRE. Can't you give us numbers based on CETA data? I would want to have the Treasury tell us how that money is allocated based on the CETA data. Can you do that?

Mr. YOUNG. There are approximately 1,400 areas covered under titles II and VI of CETA. Four hundred and thirty of these are prime sponsors, 800 are program agents, and 250 are areas of substantial unemployment. All of these data for the month of July will be available in September.

Now, data for the first quarter of the year, as I understand it, are already available.

Senator PROXMIRE. Well, we wanted to get the information based on the first quarter of the year. We were told the House hearings were very clear in showing that information would be available by the middle of August. You say you can't give us any indication of—

Mr. BRECHT. The data for CETA areas were transmitted to ORS in mid-August.

PAYMENT ALLOCATIONS TO STATES AND LOCALITIES

Senator PROXMIRE. They were transmitted to the Treasury. Can the Treasury tell us about those allocations?

Ms. TULLY. We are currently missing data. There are some 150 counties for which we do not have individual statistics.

I think it also should be pointed out that, not only do we need the data for the first quarter of 1976, but also we need the second quarter data as well because there is a second payment due as of October 5. So we are hopeful that the data will be available.

Senator PROXMIRE. Can you give us information on the first payment based on the first quarter figures?

Ms. TULLY. We have data that we would not want to rely on as final because any time data is changed, it can change the entire payment for statewide or even nationwide distribution. We do have data which is available but not precisely verifiable.

Mr. PETERSON. Our trial allocation, which we discussed somewhat with the House committee, was based on the last quarter of last year. This gave us sort of a ball park idea as to the impact of the allocation formula. But we haven't done an allocation yet based on the data that would be used to pay the first two quarterly checks.

THE NEED FOR EXPEDITIOUS ALLOCATION OF THE FUNDS

Senator PROXMIRE. As you can imagine, Members of the Congress are going to want to know about this before they vote on it. I think they are entitled to know how this affects their State. We want to get a better understanding of whether this is or is not the kind of legislation that would do the job.

Mr. BRECHT. I couldn't agree with you more that the sooner we get the payments out, the better. We recognize this is an emergency jobs bill. Hopefully these payments will show some impact and make the legislation worthwhile.

Would it be possible for us to issue the checks on less than the most perfect data and, hopefully, make adjustments in subsequent payments, in response to the chairman's concern here that we move ahead?

Senator PROXMIRE. I am very much for that attitude. I think you are exactly right. That is the whole purpose of the legislation.

Nevertheless, we do want to cooperate. It is Congress' intent to get it done now and not when the recession is over.

ASSURANCE REQUIREMENTS

Ms. TULLY. Mr. Chairman, I wholeheartedly agree with the Assistant Secretary. We are most anxious to make these payments. However, we do need to have the data required by the law, and we will move forward in making payments as soon as we have that data.

I should mention, also, that the law requires that no payment be made prior to the receipt of signed assurances from the jurisdictions, and there are approximately some 25,000 state and local governments. Therefore, we must send an assurance forms to these governments and receive them back before payments can be made. So in that interim, there is time to work on the data and allocation system while getting assurances.

Mr. BRECHT. I think that is a good point. The data from BLS is certainly not the only constraint at the moment. But we will work in parallel and move out as fast as possible in the other areas and, hopefully, not let the lack of data become the bottleneck in making payments as soon as possible.

Senator PROXMIRE. As soon as you can, I hope you can give us a breakdown of amounts by recipient for the record. I guess we are going to mark the bill up. So if you can, give us as much as possible on the timing of this whole operation. I don't think we have a clear picture for the record yet what you are getting from the Bureau of Labor Statistics and what you have gotten.

Mr. BRECHT. You would like something additional for the record on that score?

Senator PROXMIRE. That is correct.

Mr. BRECHT. And I gather, rather quickly?

Senator PROXMIRE. That is right. The committee will have to act without it, obviously, because we are going to act this afternoon. But we would like it for Senate floor action.

Mr. BRECHT. We will do everything we can and work in cooperation with the Bureau of Labor Statistics.

[The information follows:]

IMPLEMENTATION OF TITLE II OF
PUBLIC WORKS ACT OF 1976 - INITIAL ACTIVITIES

Before payments to recipients may be made under this Title, the following sequence of events must take place:

1. Appropriation Enacted

Since direct expenditures for administration of the new Act may not be made until an appropriation has been enacted, publishing regulations and providing assurances and instructions to more than 25,000 recipients must await that action.

2. Interim Regulation Clearance

Interim regulations for the program are required to be developed in consultation with the Secretary of Labor and published in the Federal Register. An abbreviated comment procedure must follow.

3. Data Determination & Receipt

ORS must receive unemployment data for the first quarter of this calendar year in the required format from the Bureau of Labor Statistics a minimum of 21 days before a payment to allow editing and correction with BLS, establishment of data files for recipient governments, computation of allocations for all eligible recipients, and establishment of accounting records as well as preparation of pay documents. Data for the second quarter of this calendar year must also be received from the Bureau of Labor Statistics at the same time to allow payment for the second quarter to be made along with the retroactive first quarter payment.

4. Printing & Mailing

The assurance forms and instructions, the interim regulations, and an explanatory letter must be sent to the printer on an expedited schedule no later than 7 days prior to mailing date. Appropriate mailing time must be provided so that recipient governments have 30 days after receipt of material to return assurances to ORS.

5. Assurances Received

Assurances must be received from recipients and processed for acceptance by the Office of Revenue Sharing not later than two weeks prior to a payment. For governments late in submitting assurances, payment would be made as part of the next quarterly payment during the first five working days of January, 1977 or as otherwise determined by the Secretary.

6. Payments Made

On the day of payment for the first quarter, payments also will be made for the second quarter if the Bureau of Labor Statistics provides the proper data for the second quarter in sufficient time. It is expected that approximately 25,000 governments will be paid under the new Act.

BUREAU OF LABOR STATISTICS UNEMPLOYMENT RATES
FOR THE FIRST AND SECOND QUARTERS OF 1976
REQUIRED FOR TITLE II OF THE PUBLIC WORKS ACT

For purposes of Title II of the Public Works Act, the Bureau of Labor Statistics is providing to the Office of Revenue Sharing first and second quarter unemployment rates for the States and those identifiable units of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of Title II or Title VI of the Comprehensive Employment and Training Act of 1973, and for Balances of the States. The BLS has not been able to process the CETA data for the first and second quarters in time for their respective scheduled delivery dates of August 11, 1976, and September 3, 1976. The CETA data are developed on a monthly rather than a quarterly basis and are applicable to more than governmental jurisdictions. For these reasons, further processing and review of CETA unemployment data was required by BLS before it could be provided to the Office of Revenue Sharing for Title II purposes.

The BLS has provided on tape to the Office of Revenue Sharing first quarter 1976 unemployment rates for the States, identifiable local governments and the Balances of the States. No data has been received for the second quarter. However, that Agency has indicated data for approximately 150 additional county governments will not be available for that quarter until September 10, 1976. These counties are jurisdictions for which unemployment data for the whole county can be determined by summing CETA unemployment data for their component parts. These data will be provided together with the second quarter data. Additional procedures are necessary before BLS can estimate the total county unemployment rates for these jurisdictions and provide them to the Office of Revenue Sharing.

Allocations for the July 1, 1976 - September 30, 1976 quarter cannot be developed without the first quarter unemployment rates for the 150 county governments with CETA unemployment data for their component parts. BLS has indicated that the missing unemployment rates for the first quarter and all of the unemployment rates for the second quarter will be delivered to the Office of Revenue Sharing on September 10, 1976.

HOUSE ALLOWANCE

Senator PROXMIRE. I note that the House provided \$1,633,000 to fund 30 additional positions at the Treasury Department for the administration of the antirecession program, yet EPA needed only \$800,000 to fund 40 additional positions.

Why are your costs per position estimated to be twice as great as EPA's costs?

Mr. BRECHT. Well, I think mainly because, Mr. Chairman, only about half of that represents personnel costs. The rest is computer support, printing, postage, equipment rental and purchase, travel, contracts, space costs, select charges, GSA and so on. In addition, the Treasury requirement combines both transition quarter and fiscal year 1977 funding.

Senator PROXMIRE. I would like you to provide as much for the record as you can. EPA has those costs, too.

[The information follows:]

TITLE II OF PUBLIC WORKS ACT OF 1976
COMBINED TRANSITION QUARTER AND FY 1977 REQUIREMENT
(Dollars in Thousands)

	Level I		Level II	
	Positions	Amount	Positions	Amount
Administration:				
Treasury:				
Personnel costs	20	\$ 565	30	\$ 775
Computer support		100		100
Printing		250		250
Postage		100		100
Equipment, rental, and purchase		100		100
Other - reimbursement to other agencies, travel, contracts, space, etc.		235		308
Subtotal	20	1,350	30	1,633
Labor Department requirement .	10	250	10	250
Subtotal Administration	30	1,600	40	1,883
Payments to states and localities	...	1,250,000	...	1,250,000
Total	30	\$1,251,600	40	\$1,251,883

BUREAU OF LABOR STATISTICS REQUIREMENTS

Senator PROXMIRE. In material provided for the House hearing record, you listed \$2 million as a part of your itemization of funding required to administer title II for transfer to the Labor Department—presumably for the Bureau of Labor Statistics. The House did not provide this money, but simply said in its report that data available under the Comprehensive Employment and Training Act (CETA) should be used.

Is it realistic to expect the Bureau of Labor Statistics to be able to upgrade its figures—even if we provided the \$2 million—before this program terminates a little over 1 year from now?

Mr. BRECHT. I am going to make a comment and ask Mr. Young to elaborate. I think that was the basic outcome of the House hearings. There must have been 20 minutes to a half hour of debate and discussion on how reliable are the statistics that come out of the Bureau of Labor Statistics, particularly at the local level as opposed to the national level.

I think the sense of the Congress was that while there is a need and future plan for BLS to improve its data at the local level, there was a question as to whether they could do it in a timely enough fashion to do the program any good.

Mr. Young, would you like to elaborate on that?

Mr. YOUNG. Yes, I would.

The data for areas grows progressively weaker as the population base in an area is smaller. And some of the data in the CETA-sponsored areas is fairly weak because these areas have a small population base.

The Bureau of Labor Statistics is engaged in a number of projects in cooperation with State employment security agencies to improve the quality of those data.

Under title I of this act, in supplying EDA and the Department of Commerce with needed county data under title I, we will be supplying data in somewhat more detail than is called for in title II for the Office of Revenue Sharing, because of the requirement in the bill for the balance of a State as a total of the nonidentifiable local governments. Since data are being compiled in more detail for the EDA interest, these county data will also need to be kept up to date for ORS or we will not be able to say that we are certifying to ORS the best available data.

The cost of doing this, of constructing a data base, maintaining a retrievable file, transmitting the information to ORS, and giving responses to the numerous inquiries which we anticipate from local jurisdictions on the data which was in this data base supplied to us, would be approximately \$250,000 and 10 positions. We communicated this to the Treasury.

BUREAU OF LABOR STATISTICS ESTIMATE PROVIDED TO HOUSE
COMMITTEE

Senator PROXMIRE. What does the \$2 million represent?

Mr. YOUNG. The \$2 million was an estimate which we prepared when we first heard of this bill before we had had adequate communication with the Treasury or had studied the bill, when we thought

we would be under obligation for a great deal more detailed area data, which we now see we will not have to prepare.

BUREAU OF LABOR STATISTICS ESTIMATE REVISED

Senator PROXMIRE. So you are saying what is needed for this purpose is \$250,000?

Mr. YOUNG. Yes.

Mr. BRECHT. And 10 positions? Is that what you said?

Mr. YOUNG. In the BLS, 10 positions for maintaining this base, reviewing the statistics as they are submitted by the States and answering requests for information concerning these data.

Senator PROXMIRE. What happens if we follow the conclusion of some of those in the House who said you can just rely on existing data?

Mr. YOUNG. If we just provided the presently existing data being provided to CETA, I feel that we would need some additional resources to handle the additional volume of requests involved. But there would not be more than that; say, half as much.

Mr. BRECHT. Mr. Chairman, I would like one thing understood. Having said earlier that in the sense of the House there wouldn't be time for data improvement or refinement in this time frame, I would like to endorse my colleague from Labor, at least to the extent of endorsing support for anything they can do to facilitate getting data to us so we in turn can get our job done. I would hope Labor's request would be entertained because, in the end, we have the job of getting the payments out and we are entirely dependent on BLS for a significant input.

CAN TREASURY COVER THE BLS REQUIREMENT?

Senator PROXMIRE. Suppose the Treasury paid part of their salary and expense funding to BLS for the purpose of providing personnel and other facilities to make the data available?

Mr. BRECHT. I don't quite know how to answer that, Mr. Chairman. As we built our budget up, as you can appreciate, there were a lot of uncertainties in terms of the job to be done, and it was our best estimate of what we thought was required.

You know, it may well be that we have enough in the House-approved amount to cover it. I just don't know that I can answer it any more definitively than that because we are dealing with a brand new program with which we have no experience.

That is a candid answer. Maybe we can; maybe we can't.

Mr. MATHESON. This was our estimate of resources needed to accomplish the program and, again, it is to cover both transition quarter and fiscal 1977 costs. There are many contingencies we considered in putting this budget together. We finally said we hope they won't happen, yet we have no assurance we will not be troubled with a great number of discrimination complaints or something of that nature.

So with this minimum amount of money, we would have problems in trying to fund the Labor requirement as well.

Senator PROXMIRE. There will only be a few weeks left in the transition quarter when this bill passes, particularly if the President vetoes it. If Congress acts over that veto there will be no time at all, since the next quarter starts October 1.

Mr. BRECHT. If it comes down to that, I think I am willing to cover it. We are dealing in an uncertain area here. In fact, we had problems in putting the whole estimate together. We had a range as to what we thought we could do.

I think if the Labor requirement is no higher than \$125,000, we could try to cover it.

Senator PROXMIRE. Ladies and gentlemen, thank you very, very much for a very helpful and expert presentation.

Mr. BRECHT. You are very welcome, and we will provide the additional information for the record.

CONCLUSION OF HEARINGS

Senator PROXMIRE. The subcommittee will stand in recess. We expect to convene other members to act on this proposal shortly, in the next few minutes.

[Whereupon, at 9:55 a.m., Thursday, August 26, the hearings were concluded, and the subcommittee was recessed, to reconvene at the call of the Chair.]

MATERIAL SUBMITTED SUBSEQUENT TO HEARINGS

[Clerk's Note: By direction of Chairman Pastore, the following communications which were received subsequent to the hearing are included in the record as part of the legislative history of the bill.]

MAILGRAM FROM A. P. TRAVISONO

AMERICAN CORRECTIONAL ASSOCIATION APT,
College Park, Md.

Senator JOHN O. PASTORE,
*Senate Office Building,
Washington, D.C.:*

The American Correctional Association respectfully requests that you give priority consideration to Public Law 94-369 the Local Public Works Construction Act of 1976. Each State of the Union is unable to cope with the severe overcrowding in adult correctional facilities both prisons and jails. This act will be a positive step which will help our States and counties alleviate the problem in the near future and the crush of continued overcrowding which we predict will be a factor for several years ahead.

A. P. TRAVISONO,
Executive Director.

STATEMENT OF RICHARD N. HARRIS, CHAIRMAN, NATIONAL CONFERENCE
OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS

National
Conference of
State Criminal
Justice Planning
Administrators

August 27, 1976

The Honorable John O. Pastore
Chairman
Senate Appropriations Subcommittee on
State, Justice, Commerce and the Judiciary
S-128, The Capitol
Washington, D. C. 20510

Dear Senator Pastore:

It is my understanding that your Subcommittee is currently considering the merits of a \$3.45 billion public works appropriations bill, H.R. 15194, known as the "Public Works Employment Appropriations Act". We of the National Conference of State Criminal Justice Planning Administrators find this time particularly appropriate to remind the Subcommittee of the dire need for new and improved facilities for our institutions of criminal justice to enable the practitioners of the state and local justice system to better serve their clients and the community at large.

In many American communities, the police stations, the halls of justice and the houses of detention are a century in age or older. Many of these older buildings are incapable of security. They are health hazards, fire traps and of questionable structural strength. These facilities themselves often contribute to operational inefficiency in our justice system.

In the field of corrections a bona fide crisis is already upon us. For years overcrowding has plagued those charged with responsibility for operating correctional institutions. As a result rehabilitation has taken a back-seat to attempts at providing humane custodial care. Jails are condemned year-in and year-out, but their use continues as no alternative facilities exist. The current crisis results from a number of factors as simultaneously the courts refuse to tolerate further overcrowding and have frozen inmate levels, and in response to citizen frustration with criminality, more frequent and longer prison sentences are imposed. It is estimated that state and federal inmate populations will grow from 250,000 at the end of 1975 to 377,000 by 1985 if current trends continue. The ABA's Correctional Economics Center estimates that the additional space required for these new inmates will cost from \$3.5 to \$4.7 billion. These figures do not include improvements needed in the housing of current inmate populations.

Due in part to the crisis outlined above, the serious deficiencies in law enforcement and adjudicatory facilities may be overlooked. They too, however, are serious problems. There are station houses in America where peace officers are so cramped and able to accommodate equipment so spartan that the officer's conditions can be compared to those of inmates in state institutions and local jails. The basics of management and operational efficiency are academic when office space precludes proper record keeping, evidence storage and property control. In many areas court rooms are in much the same deplorable state. There are courts in America today where proceedings must be suspended when rain

penetrates the roof, when extreme heat or cold make the environment intolerable and when external noise renders testimony inaudible.

Responsible for planning a program of comprehensive criminal justice improvement in the 55 states and territories, the members of the National Conference of State Criminal Justice Planning Administrators are deeply concerned over the condition of these law enforcement, court and correctional facilities. We have found potential resources to address these problems to be scarce and growing scarcer. State and local tax revenues continue to decline or hold steady at best and new local tax sources seem non-existent. Bond issues are failing with greater regularity as fiscal restraint becomes the by-word.

What of LEAA and Crime Control Act funds? A number of reasons, both individually and in combination, keep this program from being the answer to the poor facility problem. First there is the inadequate level of funds. Given the range of activities required, let alone the range of options in a program which mandates a comprehensive approach to criminal justice reform, the funds available through LEAA are too limited to devote to far-reaching construction programs. And now, with a 17% reduction in the LEAA budget over the last two years, construction becomes even more unlikely. Second, there are those that believe that regardless of funding levels, the program was meant to support "innovative" approaches and techniques, therefore, capital improvements are "inappropriate" uses of the grants. Finally, the requirement that LEAA funds be matched by an equal amount of state and local funds precludes consideration of building with LEAA funds in financially-strapped communities. In this case, it is simply not a feasible use of grant funds. In short other sources of financial assistance will be required to begin a rebuilding of needed criminal justice facilities.

It is our understanding that under provisions of P.L. 94-369 the construction of criminal justice facilities which met certain other criteria, are a permissible use of federal funds, without match and at the option of state and local officials. Certainly as much resources of this nature that can be made available are welcome given the circumstances I have outlined above.

Thank you for your consideration of this matter. If you have need of further information, please feel free to call on us.

Sincerely,

Richard N. Harris
Richard N. Harris
Chairman

STATEMENT OF FERRIS E. LUCAS, EXECUTIVE DIRECTOR, NATIONAL
SHERIFFS' ASSOCIATION

NATIONAL SHERIFFS' ASSOCIATION

SUITE 320 • 1250 CONNECTICUT AVENUE • WASHINGTON, D. C. 20036
TELEPHONE: CODE 202: 872-0422 27 August 1976

Hon. John O. Pastore, U.S.S.
3215 Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Pastore:

It is my understanding that you are presently considering the legislation, recently passed over veto, often referred to as the Public Works bill.

In this regard, I respectfully request, as Executive Director of the National Sheriffs' Association with its more than 53,000 members, that there be consideration given to diverting a portion of this work to county correctional facilities.

There are presently 3,102 sheriffs in the nation. The vast majority operate county detention/correction facilities. Many of these are antiquated and badly in need of renovation or expansion. Many more should be abandoned and new facilities constructed. This is not mere speculation but rather reflects the thinking of the U.S. Bureau of Prisons and State Jail Inspectors from coast to coast.

Overcrowding in many jails has placed the administrators thereof in an untenable position. They are ordered to accept no additional prisoners; yet, prisoners are delivered to them daily.

In addition, there is, as you know, a dramatic increase in crime. With it comes the realization that there will be many more prisoners incarcerated over the next coming years.

Mr. Norman A. Carlson, U.S. Bureau of Prisons, has on many occasions commented that new and improved correctional facilities are vitally needed if there

is to be any progress made in combatting recidivism and effectively realizing rehabilitation.

This viewpoint is commonly shared by virtually all within the criminal justice system in our nation.

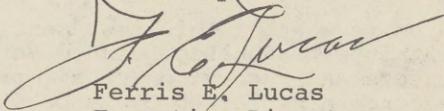
By diverting or allocating certain monies to be used for this worthwhile purpose, the bill can not only realize its primary purpose of curbing unemployment. It can also prove a powerful force for combatting criminal activity and, thereby, perhaps, to a measure at least, prove self-liquidating.

Even those jails which are presently acceptable will need additional facilities within the next few years. Most are lacking in some way, e.g., insufficient cells, prisoners sleeping on floors, unsafe because of inherent structural deficiencies, lack of recreational facilities, lack of provisions for segregating youthful from hardened criminals, sentenced from unsentenced prisoners, etc., ad infinitum.

The counties of the nation are caught in the dollar squeeze and are unable to allocate sufficient funding for this purpose. Therefore, unless financial assistance is forthcoming, today's deplorable conditions will continue and an adverse affect on rehabilitation and incarceration.

Thank you, Senator Pastore, for any consideration you may give to this proposal. It can and will prove efficacious in our fight against criminal activity.

Cordially,



Ferris E. Lucas
Executive Director

LETTER FROM JOHN W. EDEN, ASSISTANT SECRETARY FOR ECONOMIC
DEVELOPMENT, DEPARTMENT OF COMMERCE

September 10, 1976

Honorable John O. Pastore
Chairman, Subcommittee on State,
Justice, and Commerce, the
Judiciary, and Related Agencies
Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

EDA has amended the Local Public Works Act Regulations. The amendments will appear in the Federal Register on Monday, September 13, 1976.

One of the amendments involves the third factor in the project selection formula, which is set forth in Section 316.10(a)(2)(i). It changes this factor from cost per person month to the relationship of labor costs to total project costs. The amendment also provides that projects having labor costs greater than 35% of total project costs will receive the maximum score for this factor. In other words, projects having labor costs in excess of 35% will not receive any additional credit for this factor.

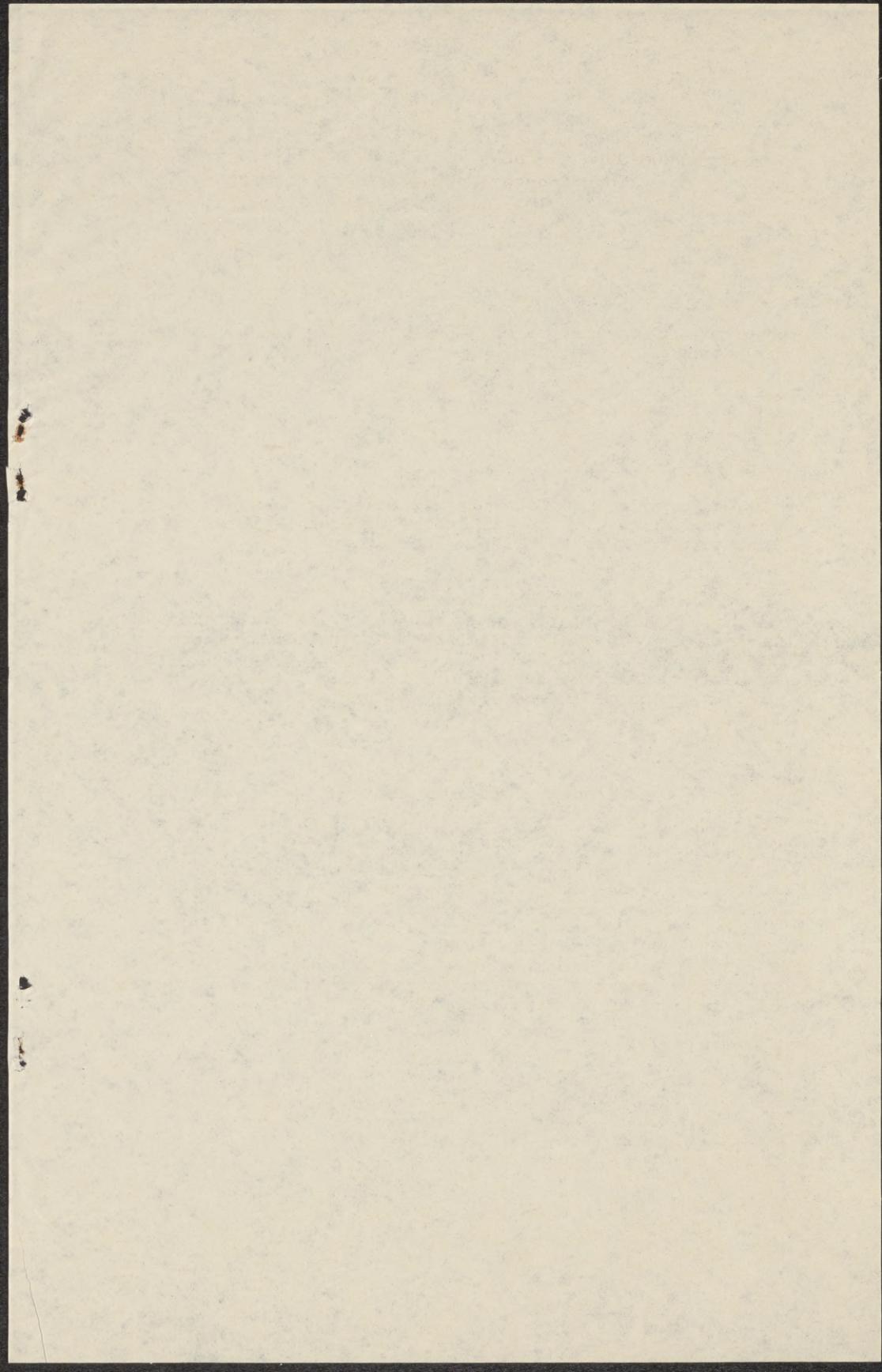
Finally, the amendment provides that projects where labor costs constitute more than 80% or less than 10% of total project costs will be rejected and denied.

EDA believes that this amendment will help the agency maintain a reasonable balance between new construction projects and renovation/repair projects, and thus answer the concern expressed by Members of Congress and the public that the project ranking formula tended to favor "leaf raking" type projects. These amendments articulate the intent of Congress that the program promote the construction of permanent and substantial public facilities.

Sincerely,

(s) John W. Eden

John W. Eden
Assistant Secretary
for Economic Development



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