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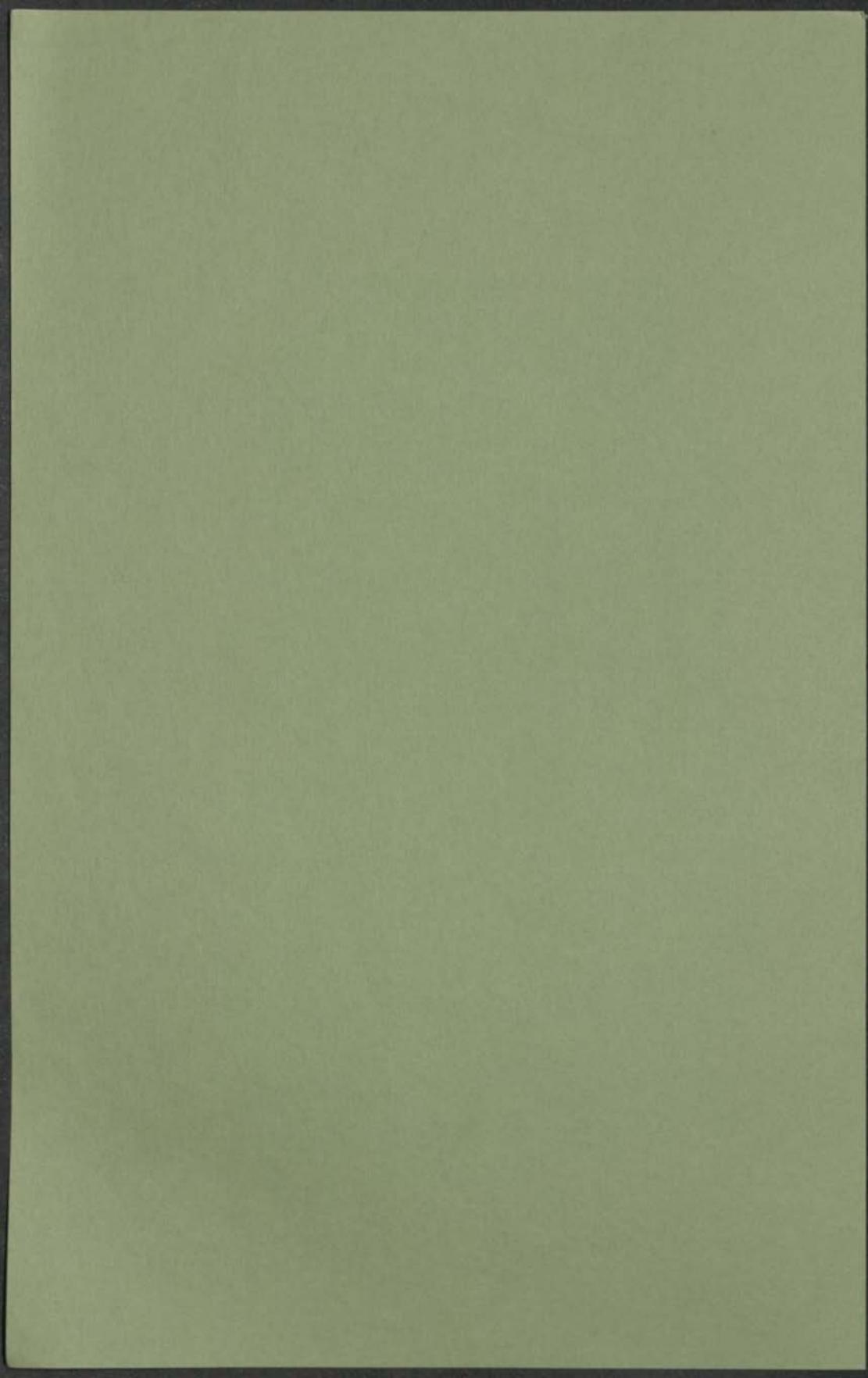
New York City Loan Guarantee Appropriations

Fiscal Year 1979



95th CONGRESS, SECOND SESSION

SPECIAL HEARING



NEW YORK CITY LOAN GUARANTEE APPROPRIATIONS

HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE NINETY-FIFTH CONGRESS SECOND SESSION

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SPECIAL HEARING



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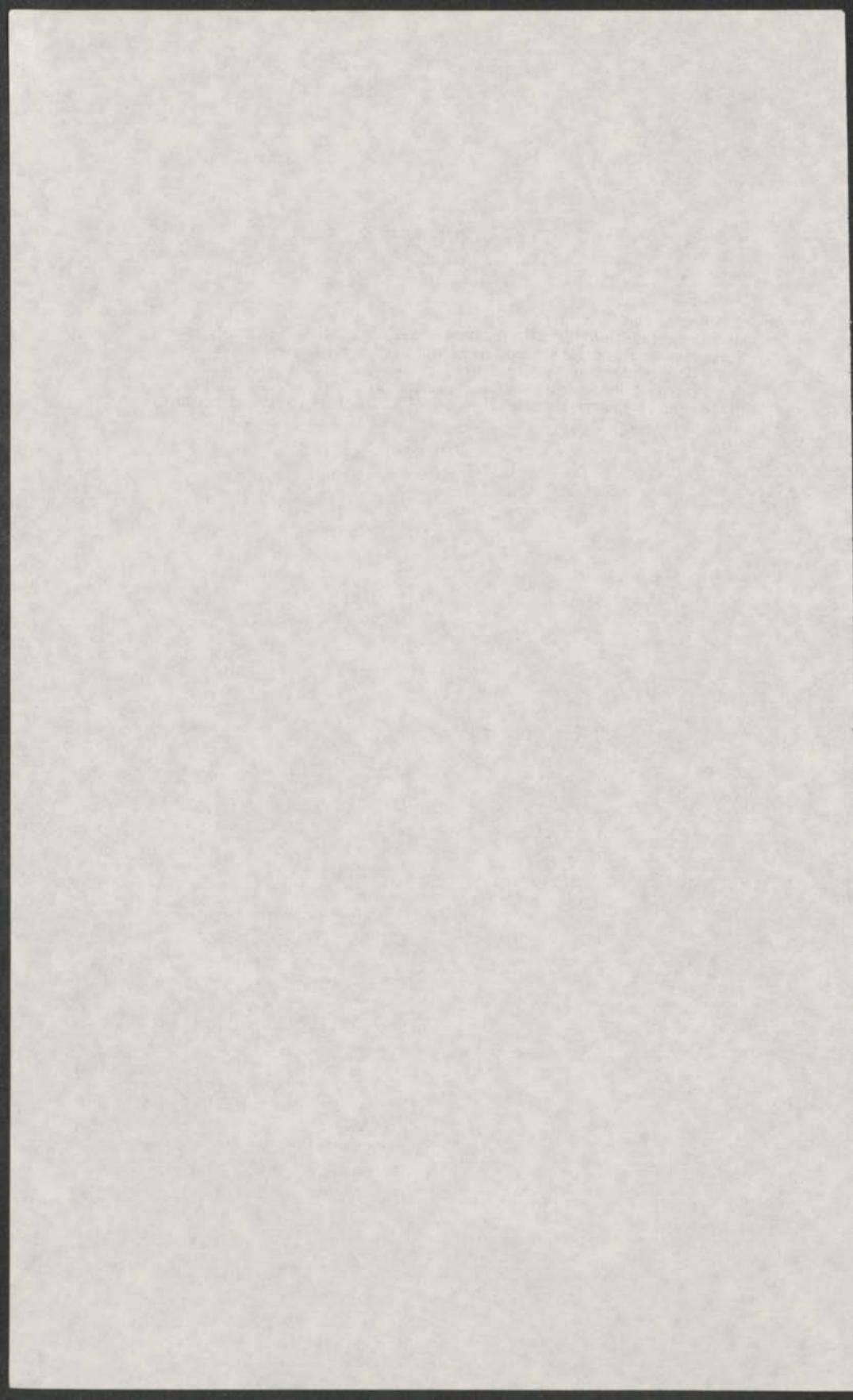
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NEW YORK CITY LOAN GUARANTEE APPROPRIATIONS

FRIDAY, AUGUST 18, 1978

U.S. SENATE,
SUBCOMMITTEE ON HOUSING AND URBAN
DEVELOPMENT AND CERTAIN INDEPENDENT AGENCIES,
Washington, D.C.

The subcommittee met at 10:10 a.m., in room S-1318, Everett McKinley Dirksen Office Building, Hon. William Proxmire (chairman) presiding.

Present: Senator Proxmire.

DEPARTMENT OF THE TREASURY

STATEMENT OF ROGER C. ALTMAN, ASSISTANT SECRETARY,
DOMESTIC FINANCE

ACCOMPANIED BY:

ROBERT MUNDHEIM, GENERAL COUNSEL
JOHN FOUHEY
LUKE LYNCH
DAVID HERSHIPS

FEDERAL GUARANTEES UNDER ACT

Senator PROXMIRE. The subcommittee is meeting today to consider the Administration's request for the appropriation of the Federal guarantees authorized in the New York City Loan Guarantee Act which was signed into law on August 8.

The act authorizes up to \$1.65 billion in Federal guarantees of New York City securities through June 30, 1982, and it sets annual limitations on the amount of guarantees to be available in each year of the program.

The administration has requested that the Congress appropriate the full \$1.65 billion in guarantee authority and also provide such sums as are necessary to make payments of principal and interest in the event of a default.

The House Appropriations Committee has reported out H.J. Res. 1088 which would, at the administration's request, appropriate the guarantee authority along the lines requested by the administration. House floor action on this legislation has been postponed until after the Labor Day recess. I hope that postponement doesn't cause difficulties. We will be interested in hearing your views as to whether the timing is appropriate. If it isn't, we are in a tough spot because it would be difficult to call the House back before the recess ends. We would like to know your thoughts on this point.

In considering this appropriation request, the subcommittee has a responsibility for looking at the context in which the Federal guarantees are to be utilized. They are intended to be a part of the comprehensive financing plan designed to meet all of New York City's long-term and short-term financing needs over the next 4 years.

By the end of that 4-year period, when the guarantee program expires, the city is supposed to have a fully balanced budget and be able to meet all of its financing needs in the public credit markets, without any further Federal assistance. The authorizing legislation contains a number of provisions aimed at insuring that the city accomplishes these objectives.

In the course of this hearing, the subcommittee will consider the following matters in particular:

First, the conditions under which the Federal guarantees will be provided.

Second, the steps which the Treasury Department is planning to take to insure that all of the requirements of the authorizing legislation are met on a continuing basis.

And, third, the shape of the financing package in which the guarantees are to be used.

We want to be sure that everything is on track and that the intent of Congress is being met, before the committee approves the appropriation of the guarantee authority provided in the New York City Loan Guarantee Act.

Although we are likely to appropriate the full amount of the guarantee authority requested, I note that the Treasury intends to make commitments to provide only a portion of the guarantees "up-front" and to hold the rest of the guarantee authority for use only on a standby basis.

I think this is the right way to do it, and I urge the Treasury to push the city to get back in the credit markets on its own as rapidly as possible. As you know, the House Banking and Urban Affairs Committee, by unanimous agreement in February, felt that the guarantee wasn't necessary. They may have been wrong, but in my judgment, that assumption has not been rebutted.

This minimum commitment approach is certainly what was intended in the authorizing legislation, and it is in the best interests of all concerned.

Mr. Altman, we are happy to have you and your colleagues as our witnesses this morning. Go right ahead.

INTRODUCTION OF ASSOCIATES

Mr. ALTMAN. I am accompanied by Mr. Mundheim, General Counsel of the Treasury, and other members of the various staffs that have worked with us on the New York City matter.

PREPARED STATEMENT

With your permission, I would like my testimony to be inserted in full in the record, and I will simply summarize it.

[The statement follows:]

PREPARED STATEMENT OF ROGER C. ALTMAN, ASSISTANT SECRETARY
DOMESTIC FINANCE

Mr. Chairman and Members of the Committee:

My testimony covers two major points. First, I will discuss the Administration's request for a full appropriation to enable the Secretary of the Treasury to guarantee payments of principal and interest on loans pursuant to the New York City Loan Guarantee Act of 1978, which was signed by the President on August 8, 1978. The second part of my testimony will cover the status of the City's \$4.5 billion four-year long-term financing plan and its seasonal financing plans.

Request For Appropriation

First, Mr. Chairman, the Administration requests authority for the Secretary of the Treasury to issue guarantees of the principal and interest on \$1.65 billion principal amount of City and MAC bonds and appropriation of such sums as are necessary to make payments of principal and interest on guaranteed bonds if there is a default. The appropriated sums should remain available until September 30, 1998. No guaranteed bonds can be issued after June 30, 1982 and the maximum length of any guarantee is 15 years; therefore the last date on which a guaranteed payment might be due is June 30, 1997. The extra time will allow for resolution of any dispute or litigation over a payment due in 1997. The House Appropriations Committee has already acted favorably and reported out an appropriation bill for the full amount of the authorized guarantees to the full House.

Mr. Chairman, we request a full appropriation because it is needed to raise the \$4.5 billion in long-term capital which New York City requires over the 1979-1982 period. In particular, it is needed to obtain commitments to loan on an unguaranteed basis \$1.8 billion over the next four years from private lenders.

The financial institutions have specifically stated in their term sheet that they will lend only on the condition that there has been prior enactment of legislation appropriating the full amount of Federal guarantees on a one-time basis. The pension funds representatives have advised us that in their capacities as trustees they also expect to make such appropriation a condition of their lending on an unguaranteed basis to the City or MAC. They both make the point that they cannot be expected to commit to loan for the next four years if the Federal commitment -- on which they count as the ultimate backstop -- is subject to periodic review and unrestricted withdrawal. While I cannot state that this financing will fail if this condition is not met, I must say that their position is not unreasonable. I should further point out that without a four year commitment, that is a real commitment, from these lenders, we could have a very difficult time making the necessary findings under Section 103(4) of the Loan Guarantee Act necessary to issue any guarantees.

Status of the City's Long-Term and Short-Term Financing Plans

Mr. Chairman, let me now review the status of New York's financing plans. I'll begin with the more important of the two plans -- long-term financing.

The four-year plan, in the process of being developed jointly by City officials and the Municipal Assistance Corporation, is summarized in the table below. Treasury has tentatively concluded that the plan is generally sound. As you can see, the City and MAC intend to raise \$4.5 billion in long-term capital over the next four years. Of this total, approximately \$2.3 billion relates to true capital spending, \$.5 billion is for purposes of bonding the State advance, \$.9 billion for financing the remaining operating expenses in the City's capital budget, \$.5 billion for refinancing certain MAC debt and \$.3 billion for funding the necessary increase in MAC's capital reserve.

New York CityLong-Term Financing Plan FY 1979-1982
(\$in millions)

<u>Source of Funds</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>Total</u>
Private Placement of MAC Bonds	\$ 401	\$ 537	\$ 537	\$ 325	\$1,800
Public Offerings					
MAC Bonds	500	500			1,000
City Bonds	0	0	300 ^{1/}	650 ^{1/}	950
Federal Guarantees	500	250	0	0	750
City Bonds					
Total	\$1,401	\$1,287	\$ 837	\$ 975	\$4,500

^{1/} Backed up by stand-by guarantee authority up to \$900 million.

The plan calls for approximately 82 percent of the four-year total to be raised on an unguaranteed basis. Specifically, \$1.8 billion of MAC bonds will be sold privately to financial institutions and City pension funds and \$1.95 billion in MAC and City bonds is expected to be sold to the public.

The Treasury has tentatively concluded that \$500 million of City bonds will probably have to be guaranteed during the City's current fiscal year. We will make no final decision to issue a guarantee, of course, until all of the conditions listed in Section 103 of the Act are fulfilled. In addition, concerning guarantees in subsequent years, we can only make the necessary findings at the time that such guarantees are requested by the City. While the City's plan for FY 1980 reflects the expectation of a federal guarantee, let me repeat that the Secretary will issue no guarantees until all of the conditions under Section 103 have been met.

At the moment, Mr. Chairman, intensive negotiations are continuing on (a) the terms and conditions of the \$1.8 billion MAC private placement, (b) the terms and conditions which will be

contained in the guarantee agreement between Treasury, the City, MAC and the EFCEB, and (c) the terms and conditions of the new City bonds which we will guarantee.

These negotiations are complex and time consuming, but they are proceeding in a satisfactory way. The present target is to execute the long-term financing and guarantee agreements in the first week of September with credit to be extended under the agreements in the latter half of September.

Let me turn now to the City's seasonal financing needs over the 1979-1982 period. The most significant point is that the City's seasonal needs in FY 1979 are expected to be only \$800 million, a full one billion dollars lower than the amount borrowed last year. This reduction reflects several expectations, including the partial bonding-out of the State advance, the timely receipt of capital funds, more sophisticated internal financial controls and better utilization of cash management. In general, this reduction is an important accomplishment and one which we think will help speed the City's return to the credit markets.

Negotiations also are underway on lines of credit to supply this seasonal financing for the City. These negotiations have not progressed as far as those on long-term financing, simply because all parties have been concentrating primarily on the latter. We do not expect the City to have difficulty in finalizing the needed seasonal commitments for fiscal 1979, however, or for subsequent years, from local sources. Assuming Congressional passage of an extension of P.L. 94-236, enabling the City pension funds to make further loans to the City (including seasonal loans) without jeopardizing their tax exempt status, the City has informed us that it is not planning to request Federal guarantees of any of its seasonal borrowings in fiscal 1979.

I would be pleased to answer any questions.

BASIC POINTS OF REQUEST

Mr. ALTMAN. I would like to make two basic points. First, I would like to discuss why we are requesting a full appropriation. And second, I would like to give you a report on the status of the \$4.5 billion 4-year financing plan and the seasonal plan.

Mr. Chairman, we are requesting authority for the Secretary to issue guarantees, on \$1.65 billion in principal amount of city bonds pursuant to the New York City Loan Guarantee Act of 1978 and the appropriation of such sums as may be necessary to make payments under the guarantee legislation if there is a default.

As you stated a minute ago, the House Appropriations Committee has already acted favorably on that basis, and we await action by the full House.

We are asking for a one-time full appropriation because it is needed to raise the \$4.5 billion in long-term capital which the city needs over the next 4 years. It is especially needed to finalize the commitments related to the \$1.8 billion in MAC private placement, which is the cornerstone of that long-term financial plan.

Mr. Chairman, the financial institutions have specifically stated and repeated to us constantly in recent weeks that they will lend only on the condition that there has been prior enactment of legislation appropriating the full amount of the guarantees on a one-time basis. The pension fund representatives have also taken the same position. They both think that they can't be expected to commit themselves to make loans for the next 4 years if the Federal commitment—on which they count as the ultimate backstop—is subject to periodic review and unrestricted withdrawal.

We do have, as you know, a one-House veto on this matter. And I presume that they are aware of the possibility that the veto might be used. It was put in the legislation with that idea in mind, and that is what makes it possible for us to request a one-time appropriation.

Senator PROXMIRE. Mr. Altman, we are quite aware of that.

Mr. ALTMAN. I would further emphasize that whether or not there is a 4-year commitment, which is a real one, we could have a very difficult time making the necessary findings under section 103 (4) of the Guarantee Act, which are necessary before we can issue any guarantee.

STATUS OF FINANCING PLANS

Let me turn now to a quick review of the city's financing plans. I will start off with long-term financing. You know that the long-term financing plan involves a total of \$4.5 billion over 4 years. I might say that 82 percent of that amount is intended to be raised on an unguaranteed basis.

Mr. Chairman, we have tentatively concluded that approximately \$500 million in city bonds will probably have to be guaranteed during city fiscal year 1979. I assure you that we will make no final decision to issue guarantees until all of the conditions listed in section 103 of the Act are fulfilled.

Moreover, regarding guarantees in later years, we obviously can only make the necessary findings at the time that such guarantees are requested by the city.

And while the city's financial plan for fiscal 1980 reflects the expectation of \$250 million in guarantees, I repeat that the Secretary will issue guarantees only after all of the section 103 conditions are fulfilled.

At the moment, intensive negotiations are continuing on several fronts—the terms and conditions of the \$1.8 billion in MAC private placements; the terms and conditions which will be contained in the guarantee agreement between Treasury, the city, MAC and the EFCB; and the terms and conditions of the new city bonds which we will guarantee.

These are complex and time consuming negotiations, Mr. Chairman, but they are proceeding in essentially a satisfactory way. Our present target is to execute the long-term financing and guarantee agreements in the first week of September, and extend credit during the latter half of that month.

Finally, in terms of seasonal financing, the most significant point regards the city's seasonal needs during this new fiscal year. They are projected at only \$800 million, which is a full \$1 billion less than the amount borrowed last year. This reduction, which is a major accomplishment, reflects among other things the anticipated partial bonding-out of the State advance, the more timely receipt of capital funds and other factors.

Mr. Chairman, negotiations are also under way on lines of credit to provide seasonal financing to the city and have not progressed as far as a long-term negotiations simply because all parties have been focusing on the latter.

We do not expect the city to have difficulty in finalizing the needed seasonal commitments for fiscal 1979, however, or for subsequent years, from local sources.

I am pleased to say that, assuming congressional passage of an extension of Public Law 94-236, it would enable the city pension funds to make further loans to the city without jeopardizing their tax exempt status. The city has informed us that it is not planning to request Federal guarantees for any of its seasonal borrowings in fiscal 1979.

That concludes my testimony, Mr. Chairman. And, of course, I would be happy to answer questions.

Senator PROXMIRE. Thank you, Mr. Altman.

Mr. Altman, you are requesting, as you say, the full \$1.65 billion in guarantees authorized, because you say that the full appropriation is needed to obtain 4-year commitments from private lenders so that New York City can raise the \$4.5 billion in long-term capital it needs over the 1979 to 1982 period. But the long-term financing plan shown in your statement indicates that you intend to use only \$750 million of the guarantee authority: \$500 million the first year, 1979; and \$250 million in the second year, 1980; \$300 million in 1981; and \$300 million in 1982.

In that case, why do you need the appropriation of the full amount of the guarantee authority at this time?

APPROPRIATION OF THE GUARANTEE AUTHORITY

Mr. ALTMAN. Essentially, Mr. Chairman, the financial institutions and the pension funds, as well as the public market, view the

Federal guarantee as the ultimate backstop which is available to be used if credit is not available elsewhere to the city.

It is also assurance that guarantees will be there if the city is unable to borrow on its own. It is the key ingredient in the willingness of the financial institutions to make their private commitment, and a key incentive to the public market to reopen.

Senator PROXMIRE. The backup sounds good. But you had a commitment from the financial institutions which was tied to getting a Federal guarantee. You now have a commitment to provide what is needed.

And these banks, of course, are very large and reliable institutions. They have ample capital and resources. I can't understand why, given the fact that the Federal guarantee is now enacted, you aren't virtually assured this should be enough to get private placement commitments from the financial institutions, regardless of whether we appropriate the full \$1.65 billion in guarantee authority now or whether we appropriate a portion of it now with the understanding that you can come back later if you need to use some of the stand-by guarantees.

Mr. ALTMAN. Mr. Chairman, we don't have a binding commitment yet for that \$1.8 billion MAC private placement. As I said in my testimony, the availability of a one-time appropriation has been made an explicit condition by the financial institutions to making their commitment.

So from their perspective, their commitment is contingent on the availability of a one-time appropriation.

In our view, that is not an unreasonable position. Because they consider the availability of the \$1.65 billion—namely, that the full amount is authorized in such sums as may be necessary to make payments to them under the guarantee—to be an essential element in the overall plan, without which we may not get the commitment.

Senator PROXMIRE. As I say, the banks have enough stake in New York City to be in a bleak position if New York City goes bankrupt. And I don't think the size of the Federal presence makes that much difference, so long as there is a Federal presence.

I would disagree with that kind of judgment. But you may be right, and you have talked to these people.

I used to work for one of those banks, and I think I have some feeling, too, about how they operate and how they think.

You ask that the committee appropriate such sums as are necessary to make payments of principal and interest if there is a default.

FEDERAL GOVERNMENT LIABILITY

In that event, what liability for making payments under the guarantee do you anticipate the Federal Government will have, in the first instance? Would you just pay debt service for a while and try to get the city to work things out, or would you accelerate payment of principal and accrued interest on all the guaranteed obligations in default?

Mr. ALTMAN. In general, that depends on circumstances. We would hope, that, if there is a default that there would be sufficient prospect of its being rectified and the city working it out so that we

could make interest and principal payments on the guaranteed debts for a brief period during that workout. The presumption behind this course of action is that the city would resume making those payments.

If, for reasons I don't foresee at this time, it should be clear that if the default would continue over a long period, conceivably we would accelerate. But I hope that is not the case. I don't expect it to be.

Senator PROXMIRE. According to your testimony, Treasury intends to provide \$500 million in Federal guarantees in fiscal year 1979.

The Senate Banking Committee, in its report on the guarantee bill, recommended strongly that Treasury not provide all of the guarantees at once and up-front. Instead, the Committee suggested that the release of guarantees should be accompanied by take downs of some of the private placement commitments.

RELEASE OF GUARANTEES

When does the Treasury Department plan to release the guarantees for fiscal year 1979, and in what amounts?

Mr. ALTMAN. Mr. Chairman, that is part of the negotiations which are in process. We don't have a fixed position as to when the guarantees during fiscal 1979 would be negotiated.

Senator PROXMIRE. Give us some indication of what you are thinking of.

Mr. ALTMAN. I would say this. Some part of the \$500 million will be expended, assuming fulfillment of the section 103 conditions, early in the year. That might be half of the full amount or less.

Let me say that we are quite sure that the market for city bonds won't reopen during 1979.

Senator PROXMIRE. Won't reopen when?

Mr. ALTMAN. During fiscal 1979.

Senator PROXMIRE. Why do you say that?

Mr. ALTMAN. Based on our basic assessment, Mr. Chairman, of market conditions and the likelihood of the city's—it is a market judgment. Our judgment is the city won't be able to reenter the market this year.

It is for this reason that we don't think it is important whether the guarantees are put out primarily early in the year or sequenced.

Senator PROXMIRE. It seems to me that the real development that New York seems to need—I thought it was unnecessary based on the findings of the February Banking Committee report—but the real need was the Federal presence and the Federal commitment. You have that. That is assured now.

President Carter has gone to New York and everybody has seen that the Federal Government, with all its great resources, is behind the city of New York. Wouldn't this be an ideal time for the city to sell its securities in the market?

It seems to me this ought to be a better time than almost any I can think of. Unless you try and try soon and keep trying, obviously you are not going to get the city back in the private market.

NYC BOND AVAILABILITY

Mr. ALTMAN. Conceptually, I agree with that last statement. But I don't think it is propitious now.

Senator PROXMIRE. Why not?

Mr. ALTMAN. There are several reasons. First, I think the city should receive the independent audit relating to fiscal 1978, and the market should be able to see that the independent audit has been received and studied.

Senator PROXMIRE. How long will that take?

Mr. ALTMAN. The audit will be received by approximately October 31st.

Senator PROXMIRE. It will be made available to the public?

Mr. ALTMAN. Yes.

Second, after that audit, the city should, and I believe plans to approach the rating agencies and discuss the rating of its bonds.

Senator PROXMIRE. How about a note offering instead of a bond offering?

Mr. ALTMAN. Well, I know the city would like to attempt a note offering this coming year. I believe they will try, and I believe the odds are that they will succeed in terms of the note offering.

Again, though, the \$4.5 billion plan needs to be analyzed, the audit received and the rating agencies approached. I think that will take a series of months. Whether it will take 4 or 8 months, I am not sure, but it is not propitious right now.

CONTINGENCY OF GUARANTEES

Senator PROXMIRE. Will the release of the guarantees be contingent on the takedowns of the unguaranteed private placements?

Mr. ALTMAN. It will be certainly contingent on the finalization of binding commitments for the provision of the full \$1.8 billion private placement. And I suspect that the initial takedown of guarantees will coincide with the first takedown of the private placement.

IMPORTANCE OF COMMITMENTS

Senator PROXMIRE. How important is it to the procedure to see that everybody involved keeps their commitments?

Mr. ALTMAN. It is crucial. And I assure you that we have no intention of issuing any guarantees until we are satisfied that the commitments on the private placements are firm over the 4-year period.

Senator PROXMIRE. In the joint statement of the conferees on the guarantee bill, it was stated that the Secretary must determine that all of the conditions provided in title I have been met and are being met on a continuing basis before he actually provides any guarantees.

SECTION 103 CONDITIONS

What steps are you taking to make such a determination each time that guarantees are provided in fiscal year 1979 and subsequently?

Mr. ALTMAN. Mr. Chairman, as you know, we have a small but I think a good staff involved in monitoring the city's fiscal affairs. We will not issue any guarantees until we have completed suffi-

cient analysis of all of the section 103 conditions. Then the Secretary can make the necessary judgments on whether the prospects of repayment are adequate and that credit is not available elsewhere. The key to the latter finding is the receipt by us of the City financial adviser's opinion and our own independent judgment.

But I want to make clear that we are working now so the analysis on those two points will be a thorough one.

Senator PROXMIRE. As you know, one of the differences between the House and Senate in the conference on the guarantee legislation was that we wanted very much to confine it to long-term guarantees. However, we had to compromise and provide for seasonal guarantees for the first part of the first year.

You point out that the city's seasonal financing needs for fiscal 1979, the only year seasonal guarantees are provided under this legislation, are now expected to be a \$1 billion lower than in 1978.

That is good news, especially since it means that the city is not going to request any seasonal guarantees, which we said were not needed anyway.

Do you expect this to be a permanent reduction in the city's seasonal needs—are they likely to be no more than \$800 million in subsequent years?

NYC SEASONAL NEEDS

Mr. ALTMAN. I think the trend is clearly toward lower seasonal needs. And I would expect that the amount of seasonal borrowing over the 4 years will be \$800 million or lower, or at least in that range rather than much higher. You can't be certain, however, because to some extent the city's seasonal needs depend on the timing of Federal and State aid payments. But, in general, I think that the trend is well established toward lower seasonal needs.

Senator PROXMIRE. In previous testimony by Treasury officials, it was indicated that any guaranteed New York City obligations would be used for true capital financing only, and not for purposes of financing some of the other aspects of the city's 4-year plan, such as the phase out of the capitalized operating expenses.

Does Treasury still intend that the guarantees be used only for true capital costs? If so, how will you insure that this requirement is complied with?

INTENDED USE OF GUARANTEES

Mr. ALTMAN. The answer to that is essentially yes, because as I understand it, the city's bonding authority—we are guaranteeing city bonds—doesn't permit the city to use the proceeds of long-term bonds for any purpose other than true capital expenditures.

So, we are guaranteeing city bonds, and the proceeds will be used for capital costs. The sale of MAC bonds will be used for financing operating expenses as well as for other purposes.

Senator PROXMIRE. I understand that the city's financing needs may be less than its projections in certain cases. For instance, the city may need to bond out only \$400 million of the State advance, rather than the \$500 million originally planned.

REDUCTION OF LONG-TERM BORROWING

Will the Treasury require the city to reduce its over-all long-term borrowing in such cases, or will it permit the city to apply those funds to other purposes, such as refunding more MAC bonds?

Mr. ALTMAN. Mr. Chairman, the latest plan, which reflects, for example, the \$400-million bonding, does call for \$4.5 billion overall. There has been no reduction.

Senator PROXMIRE. Wasn't \$500 million in the original plan?

Mr. ALTMAN. Well, there was some discussion in early months last year about bonding the entire \$800 million. But the latest plan that you saw at the Senate committee markup called for \$4.5 billion—\$500 million, I am told, would be used for bonding the State advance (\$400 million in fiscal 1979 and \$100 million in fiscal 1980). There has been no change since then.

Senator PROXMIRE. Suppose the city needs to bond out only \$400 million of the State advance, rather than the \$500 million in the present plan. In that situation, would the Treasury require the city to reduce overall long-term borrowing, or would they be able to use the extra \$100 million for other purposes—to refund MAC bonds, for instance?

Mr. ALTMAN. Mr. Chairman, we are essentially concerned with the—our first responsibility is being sure that guarantees are issued only for the purposes that Congress intended them to be and that all the conditions in the act surrounding the issuance of those guarantees are met.

If there is a reduction of city borrowing needs, it seems the first effect is a reduction in the need for guarantees.

Senator PROXMIRE. I agree with that. It makes sense.

Mr. ALTMAN. But I don't think we see ourselves in a position of dictating to the city regarding the purposes for which it borrows.

Senator PROXMIRE. Certainly, however, you want to have as a prime objective getting the city back into the private market just as fast as you can and getting the Federal Government out of the picture.

Mr. ALTMAN. My point is if MAC decided to sell, for example, \$400 million to bond out part of the State advance and use another \$100 million for refinancing, just as an example, I doubt we would be in a position of saying "absolutely not."

Senator PROXMIRE. Why wouldn't it be wise for the city to borrow less?

Mr. ALTMAN. It might be. But I am saying if MAC and the city came to us and said we have decided that of the billion dollars we have planned to sell publicly, for example, we are going to use \$100 million more for refinancing and \$100 million less for bonding the State advance, and if the reasons were good, I am sure we would go along with it.

Senator PROXMIRE. But you don't need the Federal guarantee for refinancing. The responsibility of the State government can make it a State issue.

Mr. ALTMAN. The first effect would be to reduce the amount of guarantees.

MONITORING EFFORTS

Senator PROXMIRE. What steps do you intend to take to monitor the city's borrowing so that you can know what it is and tell whether it is needed?

Mr. ALTMAN. Well, we watch the city very closely, as you know. We rely very heavily on the EFCB, which must approve both city budgets and city borrowing. With the combination of our own efforts and the Control Board efforts, I think we have a very good perch from which to observe the purposes of their borrowing and how it is being conducted.

Senator PROXMIRE. As I understand it, the projected sales of city bonds in the latter 2 years of the financing plan—\$300 million in fiscal year 1981 and \$650 million in fiscal year 1982—will be backed up by public sales of MAC bonds as well as by Federal guarantees.

TIMING OF FEDERAL GUARANTEE USAGE

Will you require that the MAC backup be used first before any Federal guarantees can be issued in those years?

Mr. ALTMAN. Well, Mr. Chairman, a point that was made in your committee report, with which we agreed, is that MAC's debt capacity should not be exhausted over the 4 years. So it is a matter of degree. There is no specific number of remaining debt capacity which is the right number for MAC to have.

In our judgment, several hundred million dollars should be a minimum. So I would answer this way: Provided there would be some MAC debt capacity available at the end of 4 years for the subsequent period, we would first, look to MAC and its market access before issuing any further guarantees.

But I repeat the importance of keeping in reserve that remaining debt capacity to MAC, which your own report agreed with.

Senator PROXMIRE. It appears there will not be much MAC authority remaining to back up the sales of city bonds in the latter 2 years of the plan. This is because the plan provides that all of the \$1.8 billion in private placements will be in MAC bonds.

What efforts has the Treasury made to persuade the parties involved to take some of their private placement in city bonds in order to save more of the MAC borrowing authority as backup in fiscal years 1981 and 1982?

Mr. ALTMAN. Well, we agree conceptually, Mr. Chairman, that the sale of city bonds privately instead of MAC bonds would be in the long-term interests of the city. But the financial institutions have taken the position that city bonds today are not rated, are not marketable and therefore are not an acceptable investment.

So the private placement, as I say, will be in the form of MAC bonds. I would like to see otherwise, but I can't disagree with the institutions position.

Senator PROXMIRE. There ought to be at least the option of having them take city bonds in some of the private placements. After all, I talked about sales of city bonds this year, and you said that wouldn't become, in your judgment, realistic. But in 1981 and 1982, there should be a market for city bonds. And you say you think that would be desirable.

I hoped that they would, therefore, rely more on city bonds.

Mr. ALTMAN. I hope so, too.

Senator PROXMIRE. I understand that the Treasury is considering a 15-year term for the guaranteed bonds issued in fiscal year 1979, and a 12-year term for those issued in fiscal year 1980. Is that correct?

Mr. ALTMAN. That is correct.

TERMS OF THE PROGRAM

Senator PROXMIRE. What terms are you considering for the latter 2 years of the program?

Mr. ALTMAN. Our position is, rather our negotiating position is, that the maximum term of guarantees issued the first year should be 15 years and in the second year, 14 years.

Basically, our point is that we don't think that any guarantee ought to be outstanding longer than 15 years at the beginning of the period.

Senator PROXMIRE. So at the maximum, then, the guaranteed issued in 1981 would be 13 years, and 1982, 12 years?

Mr. ALTMAN. We are seeking even shorter maturities than that, but that is the concept, yes.

Senator PROXMIRE. In the course of the Banking Committee's markup of the New York City loan guarantee bill, you indicated that Treasury was seeking \$2.1 billion in unguaranteed financing commitments from New York financial institutions and pension funds. To be specific, Mr. Carswell said that \$2.1 billion was:

* * * the level of funds that we have been asking for consistently from the start of these negotiations and the figure we are presently asking for.

However, you have just testified that the financing arrangements currently under consideration include only \$1.8 billion on an unguaranteed basis from private lenders.

NYC LONG-TERM FINANCING NEEDS

Why are you now considering this lower amount, and is this likely to be sufficient to enable the city to meet its overall long-term financing needs?

Mr. ALTMAN. Mr. Chairman, I think that amount will be sufficient. I think considering the 4-year plan, and the amounts coming from each source, that the \$4.5 billion financing package has been assembled in a sound manner.

Senator PROXMIRE. Wouldn't it take more pressure off the Federal Government if you obtained the full \$2.1 billion in unguaranteed financing commitments, so that the amount of Federal guarantees issued could be kept to an absolute minimum.

Mr. ALTMAN. Mr. Carswell said during the markup that was a position we were seeking. It was a negotiating position. We would have liked to have gotten the full \$2.1 billion. But it was negotiated otherwise.

You know, we made strenuous efforts to get the maximum amount from the local parties. But I think \$1.8 billion is a pretty major commitment and one of the largest private placements ever made, as a matter of fact, municipal or corporate. I remind you, both the bank and pension funds will be seasonal lenders.

Senator PROXMIRE. Will the fact that you have settled for the lower figure—the \$1.8 billion instead of \$2.1 billion in private unguaranteed financing—mean there would have to be more guarantees?

Mr. ALTMAN. No, sir.

Senator PROXMIRE. Why not?

Mr. ALTMAN. Because the balance of the \$4.5 billion plan in addition to the private placement and the amount of guarantees is expected to be sold to the public. We think this amount—approximately \$1.95 billion—can be handled publicly by MAC and in the later years by the city.

The original versions of this plan provide for \$2.1 billion and the current plan shows \$1.8 billion. The difference is not a large amount—\$300 million—relative to the size of the financing. That is really where the difference is.

Mr. Chairman, let me make two additional points. First, the overall commitment by the pension funds is much larger than the \$625 million they are putting up to purchase unguaranteed debt. They have to be seasonal lenders as well and are going to buy whatever amount of guarantees are issued. In fact, \$3.7 billion, I think, is the maximum for all their financial commitments including the guarantees.

The second point is that the banks and pension funds are all going to be seasonal lenders.

The last point I would like to make goes to a previous question. You asked me about the maturities of the guarantees. Our concept is there shouldn't be any guarantees extending 15 years beyond now. We are going to seek, and I think get, maturities on standby guarantees of 7 years. And I think that is a reasonable position and we are going to try to get them limited to that term.

Senator PROXMIRE. There has been a great deal of concern in Congress about the failure of the city pension funds to meet on schedule their financing commitments under the 1975 agreement. This raises doubts about the viability of the plan now being developed.

They didn't meet their commitments before, on schedule at least. So we should follow up to make sure that that is the best possible prospect of their meeting the new financing commitments required by the plan.

PRESENT STATUS OF 1975 FINANCING COMMITMENTS

What is the present status of those 1975 financing commitments? Have they all been met?

Mr. ALTMAN. All but, I believe, \$118 million. As you have probably seen from the outline of the terms of our guarantee agreement, we wouldn't issue any guarantees until the full amount of that commitment is met.

Senator PROXMIRE. The policemen and firemen's funds haven't come through, is that right?

Mr. ALTMAN. That is right.

Senator PROXMIRE. Although that contract has been settled?

Mr. ALTMAN. I don't think it has been finalized. It has not been ratified, I don't believe.

Senator PROXMIRE. What are you going to do about it?

Mr. ALTMAN. Mr. Chairman, I am reminded that the firemen's pension fund is in a negative cash-flow position. Pension legislation awaiting action here in the Senate probably will not permit a pension fund in a negative cash-flow position to make any such investments.

Senator PROXMIRE. How about the policemen's fund? That is bigger, isn't it?

Mr. ALTMAN. Yes.

Senator PROXMIRE. That fund does not appear to be in difficulty, does it?

Mr. ALTMAN. That is right. And we expect that that loan will be made on a timely basis.

Senator PROXMIRE. What will you do to insure that it will be?

Mr. ALTMAN. First of all, we don't plan to issue any guarantees unless it is made.

Second, under the statute in the past, we have had the right to sue to enforce those agreements, and we will do so.

Mr. MUNDHEIM. That is, of course, only under the coming agreement.

Senator PROXMIRE. You have indicated you intend to sue, if necessary, and not to make the guarantees if the new commitment is not kept.

What steps does the Treasury intend to take to insure that the parties involved in the new financing plan—the pension funds and the financial institutions—will honor their commitments, as scheduled?

Mr. ALTMAN. Well, as I just said, not only do we have the right to go to court to enforce those agreements, but we will not go further with any guarantees unless they are at the outset finalized in a legally binding way.

Senator PROXMIRE. The trouble is in the last 2 years of the financing plan you are not intending to provide any guarantees, so withholding a guarantee after that wouldn't give you any muscle. You would have to go to court, I presume.

Mr. ALTMAN. Well, Mr. Chairman, if a party under the private placement failed to live up to its agreement to loan funds to MAC, and failed to do so for reasons that are not covered in the private placement agreement, and if we were being requested to make guarantees, we would probably not do so. If we were not in that position, we would rely on our right to go to court.

STATEMENT OF ROBERT MUNDHEIM

Mr. MUNDHEIM. The commitment in that sense would be binding on the parties. And if someone failed to meet their commitment they would be subject not only to putting in what they had committed to put in, but also expose themselves to possibly any damages that occur because of the delay in meeting the appropriate financing through the State.

Senator PROXMIRE. I am raising these points because we have been burned once. You know, fool me once, shame on you; fool me twice, shame on me.

Would a failure to meet a commitment affect the financing parties? Would it release them from their obligations or what?

Mr. MUNDHEIM. That has been the subject of heavy negotiations, and we have not gotten to the point of finalizing how the commit-

ments of each of the parties will be affected by somebody walking away.

That is why I say it is important to remember that anybody who tries to walk away exposes himself to a substantial liability beyond putting up his commitment.

Senator PROXMIRE. What is the Treasury position on the commitment of other parties if one of the parties reneges? Would the Treasury then feel that it had a legal basis for requiring other parties to keep their commitments even though one of the parties reneged?

Mr. MUNDHEIM. That is the position which we were taking in the negotiations. There are lots of different theories as to how best to hold everybody to their commitment. It is a question of whether or not you think certain psychological incentives are going to play a large role or whether or not enforceable remedies in the courts are going to play an effective role.

That is the area of negotiations. That has not been resolved but serious negotiations are going forward. We have gone in with the position that everybody ought to remain bound, but there are very serious differences and it is in negotiation.

Senator PROXMIRE. I am disturbed by your tolerance. It seems to me there ought to be an absolute insistence on the part of the Treasury here that the reneging of one party doesn't release in any way, shape or form the other parties.

Otherwise, you just have the sort of fragility we have seen in these pension fund commitments. That may mean you are going to let other parties off the hook who have the easy ability to comply but may take advantage of your leniency and not do so.

I think the Treasury is the one agency that can act as the cement to hold the agreement together.

Mr. MUNDHEIM. We have pushed very, very hard, but it is an agreement that has to be reached among all the parties.

Senator PROXMIRE. It is my firm understanding that this Congress intended that Treasury hold this plan together.

Mr. MUNDHEIM. I think you are right, and the plan ought to be held together. I am saying that Treasury has that interest, and other participants also have an interest in seeing the full plan go forward. Our involvement is predicated on the full planning going through.

The question is what is the best technique to assure that result.

MATERIAL ADVERSE CHANGE CONDITIONS

Senator PROXMIRE. I understood that the banks were asking for a condition in the agreement that would permit them to get out of their commitments in the event of a material adverse change in the city's financial situation.

What is the status of the negotiations on that condition?

Mr. ALTMAN. Mr. Chairman, that is right. That type of provision is almost completely standard in private placement agreements, both municipal and corporate.

Senator PROXMIRE. This isn't a standard situation. This has been as close to being without precedent as any situation we have confronted. There is no other city in the country that has gotten a

guarantee from the Federal Government. The guarantee is unusual and is to the great advantage of the financial institutions involved. If the Federal Government had been indifferent and hadn't gotten in, the banks would have had to take the responsibility for seeing that the city did not go bankrupt. So, we are not asking a great deal on their part.

Mr. ALTMAN. Our job—we have been negotiating heavily on this to make sure that the terms and conditions of that private placement that govern the banks commitments are reasonable and don't give them unnecessary outs. That is what we are trying to do.

My answer specifically to your question is that there are material adverse change provisions that are reasonable and others that are unreasonable. The concept is a standard one. And we are doing our best to be sure—

Senator PROXMIRE. I do not see anything wrong with the Treasury, acting for the Federal Government, saying that this is a commitment that they have to make, that if they want the guarantee, they should forego the standard escape clause.

Mr. MUNDHEIM. One of the problems in negotiating this issue has been, that we have had material adverse change standards in our guarantee legislation. So our ability to issue guarantees is also subject to the form of that material adverse change provision.

Senator PROXMIRE. There is a great difference. Of course, what we have in our legislation—the one-House veto and so forth—does not relate to the kind of adverse change in the city's financial situation we are discussing here. We are concerned with a possible lack of effort on their part.

Mr. MUNDHEIM. Our material adverse change relates to the conditions that help meet compliance with budgetary requirements. Deviation from those requirements would signal a material adverse change.

As Mr. Altman has suggested to you, we would like to see the escape clause as narrow as possible. That is our problem in the negotiations.

The financial institutions and pension funds are going to try to model their commitment as closely to the normal commercial deal they can.

Senator PROXMIRE. You shouldn't make the escape clause very broad.

Mr. MUNDHEIM. We are not. That is the nature of the negotiations.

Senator PROXMIRE. This is an extraordinary situation, and I would hope you would stand as tough and firm as you possibly can.

Mr. ALTMAN. The way the negotiations are going, they may never speak to us again. That may be one indication of our toughness.

CONDITIONS PROPOSED BY THE BANKS

Senator PROXMIRE. What is the reaction of the pension funds to the conditions proposed by the banks?

Mr. ALTMAN. Basically, they are studying them, Mr. Chairman. They have really not come down specifically yea or nay on the major provisions yet. We are in contact with the pension funds and

our hope, of course, is that the agreement may be negotiated simultaneously.

I have no reason to think for the moment that the pension funds will block the key points that we are discussing with the financial institutions.

Senator PROXMIRE. In your view, has there been a reasonable agreement reached in terms of interest rates and maturities of unguaranteed bonds?

Mr. ALTMAN. Yes.

Senator PROXMIRE. I understand that the banks are demanding that the city pay all of their legal fees as one of the conditions. That seems to me to be outrageous.

Such an understanding would give the lawyers a blank check which could cost the city \$1 million or more. I have been considering how I could give them a golden fleece for that one. I don't blame the lawyers for trying to grab the money, but I would certainly blame the city if they provided it.

Will Treasury agree to this condition as part of the overall financing agreement?

Mr. MUNDHEIM. We are not in a position to resolve that issue or to veto a solution reached by the parties. I will say to you, as the lawyer in this group, that Mr. Altman has never failed to take the opportunity to twit.

Senator PROXMIRE. I hope he does more than twit. After all, this financing agreement is for the convenience of the city and the banks.

We almost let Detroit go to the floor. The employees of Detroit were paid in scrip for 18 months. Here the Federal Government is stepping in.

For the City to pay the legal fees of the banks, it seems to me, would be really rubbing it in.

Mr. MUNDHEIM. I think that issue is still very much in discussion between the banks and the State.

Senator PROXMIRE. Well, I hope the Treasury won't agree to a financing plan that includes that kind of provision.

Now, the New York City Loan Guarantee Act sets a number of conditions which must be met before any Federal guarantees can be provided. I have a number of questions about how Treasury intends to insure that these conditions are met.

The authorizing legislation requires that before any guarantees can be issued, there must be financing commitments in place covering all of the city's long term and seasonal borrowing needs over the next 4 years—aside from those to be guaranteed—in amounts sufficient to enable the city to be fully back in the credit markets after the guarantee programs ends on June 30, 1982—assuming that all the other conditions of the act are met as well.

At any rate, with respect to long-term financing needs, are you satisfied that there will be 4 year commitments, and that the amount contemplated in the proposed financing plan will be adequate?

SOUNDNESS OF COMMITMENTS

Mr. ALTMAN. We are satisfied that the four-year plan is a sound plan, and that the combination of the private placement commitments being negotiated now with the MAC and city public offerings will supply the city's full capital needs in accordance with the provision you cite, yes.

Senator PROXMIRE. With respect to 4 year commitments on seasonal financing, you suggest in your statement that there are some problems in negotiating those commitments. This is a bit hard to understand, since there is less risk involved in seasonal financing than in long-term financing.

You have these great banks in New York—the clearinghouse banks with \$280 billion in assets. They know seasonal financing in and out.

What are the problems here?

Mr. ALTMAN. I didn't mean to imply that there were problems relating to getting the \$800 million for seasonal needs. I simply pointed out that negotiations are not as far along in this area because all parties are focusing on the long-term issues.

As I said in my testimony, we don't envision severe problems in getting commitments for those amounts.

Senator PROXMIRE. Let me put it this way: Will the Treasury insist on 4-year commitments for seasonal financing as well as long-term financing before any guarantees are provided, as the act requires?

Mr. ALTMAN. Mr. Chairman, it is our judgment that if the private placement of \$1.8 billion is finalized with a related 4-year commitment, that the overall long-term financial plan will be essentially in place. On that basis, the city will be able to satisfy its seasonal needs.

Senator PROXMIRE. Let me ask the question again. Will you insist that the 4-year commitment on seasonal financing be provided, as the act requires?

The act requires you to do that. I don't understand why you are having difficulty with that requirement. You have to do it, under the law.

Mr. MUNDHEIM. I think, Mr. Chairman, the act says all the long term and seasonal borrowing needs will be met through commitments from the State, agencies of the State, and private sources or through public credit markets.

Obviously, the plan can presume that it is reasonable to determine that seasonal needs can be met through the public credit markets or a combination of commitments and the future credit markets.

Senator PROXMIRE. I don't want to be unreasonable I think that is sensible. But you should make a finding that in your judgment they will be able to meet their seasonal needs over the 4-years of the guarantee program—

Mr. MUNDHEIM. Absolutely.

Mr. ALTMAN. That was my point.

Senator PROXMIRE [continuing]. And that you have private placement commitments until that point. Do you agree with that?

Mr. ALTMAN. Yes.

Senator PROXMIRE. You should have private placement commitments until the point at which the remaining seasonal needs can be met through public sales.

[Mr. Altman nodding.]

Senator PROXMIRE. You seem to be hesitating on that.

Mr. ALTMAN. No, we agree. We want the seasonal commitments in place and firm in fiscal year 1979, and expect that they will be.

Senator PROXMIRE. How about fiscal year 1980, if needed, and fiscal year 1981 and 1982?

Mr. MUNDHEIM. We have to make a judgment before we issue any guarantees that the provisions of section 103 are met.

We can make the judgment now that the city's seasonal needs in 3 or 4 years can be met in the public credit market. But that is judgment we have to make.

That judgment goes into the Secretary's determination that the seasonal needs are to be met either through commitments from private sources or through the public credit market. That is our obligation.

Senator PROXMIRE. Is this a problem because the banks are unwilling to make commitments for 1980 and 1981?

Mr. MUNDHEIM. What needs to be negotiated depends on a judgment as to what you are going to be able to get in the public credit market. That is an investment banking judgment.

Senator PROXMIRE. As I say, the banks are pros in this business and know it backwards and forwards. They are making all kinds of foreign loans that are more risky. New York is their city. They are on top of the situation and there will also be a Federal presence. Therefore the banks should have no trouble coming up with seasonal financing commitments for 1980, 1981 and 1982 as necessary.

The act requires that the city have a budget balanced in accordance with generally accepted accounting principles by fiscal year 1982. That means, of course, that the operating expenses must be removed from the capital budget, and that there will be a genuinely balanced budget. Furthermore the city must make progress toward such a balanced budget in the intervening years under the requirements of State law.

MONITORING THE CITY'S COMPLIANCE

Let me ask what arrangements the Treasury is making to monitor the city's compliance with these budget balancing requirements over the course of the guarantee program?

Mr. ALTMAN. Mr. Chairman, as you know, the act stipulates that we can't issue any guarantees unless the fiscal monitor is requiring the city to adhere to, basically, that plan you described. There is that requirement.

In addition, an important responsibility we have in the Treasury is to monitor the city's financial plan in this area. We are aware that the GAO and the special Deputy State Comptroller do the same.

Again, the combination of those oversight bodies and the statutory requirements, I think, makes clear that the responsibility will be exercised.

Senator PROXMIRE. Let me indicate why I asked that question. It is not just a routine question.

There have been a number of concerns expressed about the city's fiscal year 1979 budget. Some of the major concerns include the following:

(1) The possibility that the city may fall far short of its anticipated revenues from the Federal Government, especially in the CETA program and in countercyclical revenue sharing. Apparently, the city may have lost as much as \$140 million from the latter program alone.

(2) The "fiscal gimmickry" involved in funding part of the fiscal years 1979 and 1980 labor contracts out of fiscal year 1978 money, which has been criticized by the GAO.

(3) The prospect of larger deficits arising out of new labor contracts covering fiscal years 1981 and 1982.

Now, how does the Treasury intend to address these concerns in the process of providing the \$500 million in guarantees slated for fiscal year 1979?

Mr. ALTMAN. In terms of the 1979 budget, first of all the Control Board, and the Treasury required the city to develop a \$100 million contingency deficit reduction plan in May or June, which was done, to be implemented by the city. It appears that without it there would not be that balance.

Second, you are aware, I think, that the city has additional budget reserves which are intended to cover contingencies like that. And we believe in general that the 1979 budget will meet its target as planned.

NONPROVISION OF FEDERAL FUNDS

Senator PROXMIRE. Do you feel there are reliable backups in the event, for instance, the Federal Government does not provide anticipated funds under other programs?

As I pointed out, the reduction in one program alone may be as much as \$140 million.

Mr. ALTMAN. The Senate Finance Committee did report out last week an extension of the countercyclical program. If that extension should become law, the city would not lose the full \$140 million, but about \$90 million.

Senator PROXMIRE. How about the fiscal gimmickry, funding the 1979-80 labor contracts out of fiscal year 1978 money?

Mr. ALTMAN. Both the Control Board and the city's independent auditors, Peat, Marwick, which after all is one of the largest and most respected auditing firms in the country, have approved that plan, I think.

Senator PROXMIRE. They were hired by the city, incidentally.

Mr. ALTMAN. It seems to me that the combination of those authorities—and I personally have a lot of confidence in both of them—suggests that reputable people who are experts in this area have looked carefully at that accounting procedure and approved it.

It seems to me that the auditors concluded in their independent audit that it is acceptable. That is why you have an independent auditor.

Senator PROXMIRE. The authorizing legislation contains various provisions requiring the city to repay or refund guaranteed obligations as quickly as possible after the guarantee program expires on June 30, 1982.

I tried very hard to put those provisions in the law so that these guaranteed obligations could be called in at an early date.

Mr. ALTMAN. Mr. Chairman, our negotiating position is that the guaranteed debt would be callable at any time, with interest at par. But this is part of a very complex negotiation.

Senator PROXMIRE. I don't see why there is resistance to that approach. It seems to me we can't anticipate the kind of economic situation we are going to have.

The Federal Reserve Bank of New York made a study of the New York City economy. It was quite favorable. They were cautious about it, but generally it looks like New York City is on its way up.

If the city does well, if revenues increase and welfare costs and other costs diminish as the city prospers, then it may be possible for the city to become self sufficient more quickly and retire the guaranteed obligation.

But to push the city into the private market as soon as possible and to make it use those funds to retire the guaranteed obligations makes a lot of sense because that would end the Federal involvement as promptly as possible.

Mr. ALTMAN. We agree with that. All I am presently trying to say is that it is a matter of negotiations. We are clearly not going to get every single point we would like to get.

CALL PROVISIONS

Senator PROXMIRE. I would put that point pretty high up on your list of priorities.

Do you have any call provisions or other features that Treasury plans to require as a part of the guaranteed obligations for the purpose of carrying out these provisions and what other assurances will you obtain from the city with respect to refunding the guaranteed obligations?

Mr. MUNDHEIM. Under the statutes, there are some conditions that the city must agree to. We are going to require city covenants that meet those conditions.

Senator PROXMIRE. The authorization legislation requires that the city sell its own short-term notes in fiscal year 1980-82, and its long-term bonds in fiscal years 1981 and 1982.

I understand that the city may try to sell some short-term notes as early as this fall. What, in your view, are the prospects for such a city note sale?

PROSPECT OF A CITY NOTE SALE

Mr. ALTMAN. We think, as I know you do, that the city should reenter the public notes market as soon as possible. If it can succeed in getting a rating on its notes which would facilitate a public sale, then a sale this fall seems to make sense.

Senator PROXMIRE. The financing plan outlined in your statement requires the city to sell \$300 million in long-term bonds in fiscal year 1981 and \$650 million the following year. Are there any

provisions in the plan which would push the city into attempting to sell some long-term bonds as early as fiscal year 1980, if market conditions appeared satisfactory?

SALE OF LONG-TERM BONDS

Mr. ALTMAN. One obvious provision is the credit elsewhere statute. If in our judgment the city has market access on its own for long-term debt, we would not be able to guarantee that debt.

Senator PROXMIRE. That credit elsewhere test is, of course, a central part of the legislation, and I am glad you recognize that. I hope you will take the fullest advantage of the provision.

Mr. ALTMAN. I assure you we will take it seriously.

Senator PROXMIRE. With respect to the public sale of bonds, as well as notes?

Mr. ALTMAN. As you remember the section 6.11 requirement of our credit agreement was that they try to go to the market. We took that literally last November.

Senator PROXMIRE. The act requires that New York State assume certain responsibilities in connection with the guarantee program, including a commitment to maintain aid to the city at the fiscal year 1979 level and establish a reserve fund equal to 5 percent of the principal and 1 year's interest on the guaranteed obligations outstanding, to be used for payments in the event of a default.

How will the Treasury Department insure that these requirements are met before any guarantees are issued?

Mr. ALTMAN. Well, as to the latter, I believe that State legislation will be necessary to implement the 5 percent requirement. We will require that the State enact legislation to implement it.

Senator PROXMIRE. I presume you will require such legislation be enacted by to the State Legislature before you make a guarantee?

Mr. ALTMAN. Yes.

Senator PROXMIRE. The guarantee deadline is the 15th of September.

Mr. ALTMAN. That is the target, Mr. Chairman. We hope we can meet that deadline, but we are not certain.

Senator PROXMIRE. Of course you have to get this appropriations bill passed by the Senate as well as the House.

Mr. ALTMAN. You are right. The State Legislature will also have to act before the guarantees can be made.

Senator PROXMIRE. A number of Senators have spoken in opposition to the rent control laws in New York City. I have received a lot of mail on that legislation. We have been very, very concerned about it.

Senator Morgan spoke on it, as have a number of other Senators. Senator Williams, who is very sympathetic to New York City, also indicated his great concern over what rent control is doing to the city's economy.

They urged that the Secretary of the Treasury study this issue to resolve the problems caused by the continuation of rent controls in New York City.

RENT CONTROLS IN NYC

What does Treasury intend to do about that issue, in view of the concerns expressed?

Mr. ALTMAN. Mr. Chairman, as you know, it is not part of the guarantee statute that we do anything in that area. And our view, really, has been stated by Secretary Blumenthal several times. It is that we don't think that intervening in inherently local issues such as rent control is an appropriate role for the Federal Government.

We have no plan to do anything about the local rent control problem.

Senator PROXMIRE. It is disconcerting to hear you say that, because I think all of us feel, although maybe you don't, that rent control has a very perverse effect on real property values in New York, on the city's property tax revenues, and, therefore, on the fiscal soundness of the city's operations.

Mr. ALTMAN. Well, Mr. Chairman, I don't disagree with that position as a personal matter. But I do not believe, and I know Secretary Blumenthal does not believe that that is an appropriate issue for us to intervene in.

Senator PROXMIRE. You can say almost anything is a local issue. You can say labor contracts are a local issue. Yet you have a concern about that issue because it has a direct, explicit impact on the ability of the city to meet its commitments to balance its budget and to get back into the private credit market. It seems you could make the same argument for an involvement in the rent control issue.

Mr. ALTMAN. There are aspects of concern. Our concern is the budget impact of those labor contracts on the overall requirement that the city's budget be balanced by 1982.

There are a whole series of bargaining issues many people wanted us to get into this past year that we felt strongly were inappropriate to intervene in. Our concern again, was with the cost of those contracts and not their provisions.

We do not want to sit down at a collective bargaining table, and I doubt that you would like us to. The only aspect we were interested in was the budgetary impact.

Senator PROXMIRE. You have indicated that control is a matter of private concern for you and the Secretary but you feel it is not a statutory responsibility. I think you are right about that. Nevertheless, I do hope that you will convey your opinions and concern to the appropriate parties. I think that concern is shared by an awful lot of people up in New York.

Mr. ALTMAN. You are right.

Senator PROXMIRE. It is a political dilemma all of us face. There are a lot more renters than landlords.

I judge the Treasury intends to make certain determinations regarding the credit availability requirement based on the opinion of the financial advisor of the city?

Mr. ALTMAN. Yes.

FINANCIAL ADVISER

Senator PROXMIRE. Who is this financial advisor? How will the designation be made?

Mr. ALTMAN. The city has not formally designated a financial advisor who would act in the capacity we envision under the guarantee agreement.

Merrill Lynch, and I believe First Boston, have been advising the city regularly, and I am sure they are available to serve in some capacity, if asked. But the city has not yet formally designated a financial advisor. I don't think that is a matter of great difficulty.

Senator PROXMIRE. Is it your understanding, then, that the city will designate a financial advisor?

Mr. ALTMAN. We expect the city to do that, yes.

Senator PROXMIRE. When?

Mr. ALTMAN. Let me correct myself.

Mr. Mundheim points out that one never is certain about the availability of financial advisors. But we expect the city to do that, and I have not been informed by the city that it is an insurmountable problem.

Senator PROXMIRE. We are anxious for the city to get into the private market as soon as they possibly can. My question is, will the Treasury rely on that financial advisor, or will you make your own judgment?

Mr. MUNDHEIM. We have a statutory requirement that the Secretary make such a determination. The question arises regarding what additional help and other evidence the Secretary should rely on.

I think that is a matter of what seems appropriate under the circumstances and what you can get the other fellow reasonably to do.

Whether or not you ultimately end up with one person designated for the 4 years, is a question that has not been resolved. But there is no question that the Secretary has the obligation to make the determination and use the appropriate means to make it, and he will do that.

Senator PROXMIRE. I have already mentioned the problem of timing. The city has some significant cash needs in mid-September, and you cannot sell any guaranteed obligations until both this appropriation legislation and the pension fund tax exemption bill are signed into law. You also mentioned legislation on the part of the State of New York.

The House won't take up the appropriations bill until after the Labor Day recess, and the Senate can't act until the House has acted.

STATUS OF PENSION BILL

What is the status of the pension bill in the Finance Committee? That legislation would give the pension funds the authority to meet their commitment under the guarantee act while keeping their full tax-exempt status.

When do you expect that to pass?

I was told by Senator Bentsen, who is chairman of the concerned subcommittee, and by other members of the Finance Committee, that they don't see a problem in passing the bill promptly, and that it should have passed already.

Mr. ALTMAN. The Finance Committee, as you know, agreed on a bill. The Committee is, I gather, drafting it and the draft is complete or virtually complete.

We expected a draft, as a matter of fact, yesterday, from the joint taxation committee staff. We are not aware of any problems which would relate to the passage of that bill by the full Senate.

The Ways and Means Committee has to finally act on the House side, and has not yet done so. We are not sure whether or not the Ways and Means Committee will accept the bill.

So there are steps to be taken.

Senator PROXMIRE. If it is clear that both the appropriations and pension bills are close to enactment by mid-September, even though the process is not quite completed, will you be able to get the financial institutions to take a private placement in the amount the city will need at that time, before all the formalities are completed?

Mr. ALTMAN. No, sir, I don't believe so. The financial institutions have made it clear they don't intend to do that, and I don't think we will be able to get them to.

Senator PROXMIRE. That seems to me to be uncooperative on their part. I realize they are banks and have fiduciary responsibilities. But after all, they have gotten the commitment of the Federal Government as firmly as it can be given, through the enactment of the guarantee legislation.

They know that the remaining legislation is going to be forthcoming in a few days. I don't think it is unreasonable to request that the banks take a private placement. They helped their city out for a short time.

You know, a number of Senators have come up to me and said, "our city is a big city," in whatever State they come from "and doesn't have the problems of New York City, but I am firmly convinced that the bankers would step in if it did. They would make sure they would be repaid but the bankers would step in and help our city out."

What we are asking for in New York City isn't like that. Now that the Federal Government has come in and made its commitment, we simply are asking the banks to help out for a short time without having everything in place. You say they won't do that?

Mr. ALTMAN. No; their position is that they will not go ahead under the private placement agreement, in principle, until everything is in place. I am not a renowned defender of the banks, Mr. Chairman, but I don't think that is really unreasonable.

Senator PROXMIRE. I do.

Mr. ALTMAN. It is real.

Senator PROXMIRE. It is always "business as usual." But it is "business as unusual" for the Federal Government to come in this way, and the banks ought to recognize that fact and go a little extra mile themselves.

Mr. ALTMAN. I share some of your general sympathies in this area. But, you know, the pension bill is a very important piece of legislation. There were a lot of hitches this year in trying to get this agreement put together and a hitch at the last minute could make a big difference in the city's financing.

Senator PROXMIRE. Let's assume the worst. Let's assume the pension bill doesn't pass. Are the banks going to say, "well, that is the ball game. Let New York City go down. We are going to sit in a defaulted, bankrupt city"?

The banks are sitting there with \$280 billion in resources. The city only needs a few hundred million dollars to get by. Are the banks going to let the city go bankrupt? That would be killing for those banks. They would be losing money hand over fist to the banks in Chicago, Los Angeles, London, and elsewhere in the world.

Nobody wants to put their money in a bank in a bankrupt city. The banks could avoid this situation so easily.

I think you fellows don't realize that you have that kind of a poker hand. You should play it with more confidence. You are sitting there with four aces and you are afraid the financial institutions are going to come in with five. With all these Damon Runyon characters up in New York, I wouldn't be surprised if they did.

Mr. ALTMAN. We debated that question for several months, and discussed it with other people in New York.

I think the pension bill will be passed, and I hope you think so, too. Then the overall, very complex financial agreements would be completed.

I am not sure it will be completed by the September 15 target date, but I just repeat there are enough bad things that could happen in the pension bill.

Senator PROXMIRE. In the event the pension bill is not passed on time, No. 1, and in the event the banks refuse to come in, No. 2, have you got a sufficient amount of information on the needs of New York City so you can say whether the city would be able to get through under those circumstances?

Mr. ALTMAN. Mr. Chairman, if the delay is a fairly short one, it is our judgment that the city would be able to get through.

There are options, including the private or public sale of MAC notes. Those are options which are available.

In our basic judgment, if the delay is a short one and the signing is held up by a couple of weeks, that one of those options will be exercised successfully by the city, and they will be able to get the fairly modest amounts of financing to carry them through the additional 2 or 3 more weeks necessary to get the deal signed.

Senator PROXMIRE. Thank you very, very much, gentlemen. We appreciate your testimony.

You are obviously competent and very much on top of that situation, although, I hope you will be a little tougher and firmer with the city, the banks, and the other parties.

CONCLUSION OF HEARING

This hearing is now concluded, and the subcommittee will stand in recess until Wednesday, September 6.

[Whereupon, at 11:40 a.m., Friday, August 18, the hearing was concluded, and the subcommittee was recessed, to reconvene Wednesday, September 6, 1978.]

