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Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriations

Fiscal Year 1980

96*th* CONGRESS, FIRST SESSION

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PART 1—(Pages 1–685)

DEPARTMENT OF LABOR
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
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DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

PART 1 (Pages 1–685)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Department of Labor
ACTION
Community Services Administration
Corporation for Public Broadcasting
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
Mine Safety and Health Administration
National Commission on Libraries and Information Science
National Labor Relations Board
National Mediation Board
Occupational Health and Safety Review Commission
Railroad Retirement Board
Soldiers' and Airmen's Home

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DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

WEDNESDAY, FEBRUARY 7, 1979

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

The subcommittee met at 10 a.m., in room S-128 of the Capitol, Hon. Quentin N. Burdick presiding.

Present: Senators Burdick and Mathias.

COMMUNITY SERVICES ADMINISTRATION

STATEMENT OF GRACIELA (GRACE) OLIVAREZ, DIRECTOR

ACCOMPANIED BY:

ROBERT SMITH, ASSISTANT DIRECTOR FOR THE OFFICE OF COMMUNITY ACTION
FRANK JONES, GENERAL COUNSEL
JOHN GABUSI, ASSISTANT DIRECTOR FOR MANAGEMENT

BUDGET REQUESTS

Senator BURDICK. The subcommittee will come to order.

Today we begin several weeks of hearings on fiscal year 1980 budget requests for the Departments of Labor, HEW, and related agencies.

We will begin with the related agencies.

This morning we will hear testimony from Grace Olivarez, Director of the Community Services Administration.

The fiscal year 1980 budget request is $557,000,000, compared to $742,900,000 appropriated for 1979.

Director Olivarez, please introduce your associates and proceed with your statement.

Ms. OLIVAREZ. My associates are scattered around the back.

Mr. Chairman, I am going to submit my written testimony so that I won't have to read it all.

[The statement follows:]

Opening Statement
Community Services Administration
1980 Budget Request

Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to present the 1980 budget request for the Community Services Administration. Our Agency's request is one of many within a lean and austere total for 1980. The goal of this budget, the reduction of inflation, is particularly important to the poor of America our Agency serves, for inflation in the price of basic necessities affects them disproportionately. As any home buyer knows, the value of real property to owners increases to match inflation and business can often increase prices to cover increased costs. The poor, many on fixed incomes, have no way to recover the sharply increased cost of energy, food and shelter.

Within the overall goal of inflation reduction, the President's 1980 budget request also called for better targeting of existing programs, and CSA's budget, the highest Administration budget request in eight years, reflects this. While the material previously provided the Subcommittee details the changes by individual program, in summary the categorical programs in recreation and nutrition were sharply reduced to provide funds for community action agencies and a new revolving loan fund for community development credit unions. The energy conservation activities within CSA were redirected from weatherization, which the Congress has now appropriated to the Department of Energy, to crisis intervention. The establishment of a $40.0 million request for that activity marks a policy shift from 1979, when the Administration sought legislation to provide such assistance through the State welfare system. The amount requested is an estimate of individual weather-related energy crisis needs. It does not contemplate large-scale payment of utility bills, but an emergency response capacity sufficient to provide blankets, transportation, temporary housing, food, temporary heaters and other immediate needs in energy crisis situations.

Another objective of the President's total budget was improved management. Increases in CSA's request over 1979's Continuing Resolution amounts totalling $11 million in technical assistance, evaluation and demonstrations should help provide such improvements. However, actions have already been taken within existing resources by the Agency to achieve improved management without increased cost. A major step in strengthening the agency has been completion of an internal reorganization first promised in 1975. Implementation occurred October 22, 1978,

The internal reorganization created two new offices in headquarters. The Office of Planning, Policy and Evaluation was reconstituted to provide the research and evaluation capacity lost in the attempted dismantlement by the previous Administration. The new Office has begun to explore questions that will better focus our demonstration efforts.

Public Policy Forums conducted by the Office revealed the seriousness of rural poverty needs and produced the Agency's redirection as reflected in this budget request. The new Office has also resulted in objective third party assessment of demon-

strations initiated by the other funding offices in the CSA.

The Office of Inter-agency and External Affairs was also created to better focus other agencies' programs toward the poor. For example, two agreements with HEW utilize our community action outreach capacity so as to increase SSI delivery to the elderly poor; the second agreement will increase the number of poor children immunized by the Public Health Services.

Another agreement with the Department of Agriculture jointly sponsors a WIC program specifically targeted for migrant laborers. A fourth with the Department of Labor effectively transfers a veteran's demonstration project (originally funded by the CSA) to DOL which will operate it as an on-going specific employment program through our community-based organizations. The combination of USDA with CSA and Action was achieved to jointly sponsor a series of conferences to explore the specific problems of small farmers.

The major interagency agreement, totalling $1.3 million, is the joint funding of a solar employment and economic development program in which CSA, DOE and DOL will fund prime sponsors for materials and equipment utilized by CETA participants who will be trained to install solar devices in the homes of elderly and low-income people. Agreements and working relationships have also been established with HUD and Farmers' Home Administration.

Administrative problems in our economic development program identified in 1977 were addressed in 1978 through the initiation of contract technical assistance to the grantees and a thorough re-vamping of the Federal management system. The major change was institution of the "competitive venture fund" concept, consisting of ranking venture proposals against each other rather than the previous practice of funding grantees ranked against each other. The previous practice would obligate an average of $2 million to the CDC grantee and release the funds obligated over a two year period as venture plans were developed. Obligating by venture produced considerable improvement during 1978 which was recognized when the President chose economic development CDC's as an Urban Policy vehicle ($20.0 million) this summer. The internal management change in funding policy has produced a timing problem. We are requesting for 1979 and 1980 that economic development appropriations remain available until expended to enable venture-by-venture review and funding without the timing pressure that has resulted in funding marginal programs in the past.

Like the President, I do not believe that larger appropriations alone will alleviate the problems of the poor that this Agency was created to address. However, these modest increases, offset by other decreases, represent a proper balance between necessary Federal funding and the need to reduce inflation.

That is what this budget represents -- a renewed commitment by the Federal government through the Community Services Administration to combat and reduce poverty in our country.

OPENING REMARKS

Ms. OLIVAREZ. I do have some informal remarks I would like to make before we get started, primarily because I think it's important to explain where the agency was and what we are doing today.

When the poverty program started in 1964, it was based on the expectations of unlimited resources and an expanding economy. Now things have changed. Since that time we have had to learn about nonrenewable resources, wasteful consumption, and ecological systems.

As a result of that, we now have to look at new strategies to eliminate poverty in a transitional economy.

Obviously our goal now is to help communities and people achieve self-reliance.

When I testified last year for our 1979 budget, I indicated we would have to do a better job of targeting resources made available and put emphasis on mobilizing Federal and non-Federal resources for achieving the goal of individual and community self-reliance.

For that purpose I established an Office of Inter-Agency and External Affairs within the agency. This office has responsibility for strengthening existing relationships with other Federal agencies, State and local governments, plus the private and voluntary sectors.

That office has as its focal point the identification and coordination of resources that are available and that the agency can marshal or target so we can more effectively meet the needs of the poor.

As a result of the establishment of that office within the agency, we have been able to enter into 22 interagency agreements with Labor, HEW, HUD, Commerce, Agriculture, and others.

These agreements have resulted in a pool of $28,610,000 that has been targeted toward the development of self-reliance for the poor through projects that include economic development, employment, health care, and other areas of need; $17,500,000 came from the other Federal agencies. We put up $11 million for that purpose.

Although we just began to mobilize resources at the Federal level our local grantees and community action agencies have been doing this perhaps more effectively than we have at the Federal level.

Our local agencies mobilized $4 for every $1 we gave them, so we have very dramatic examples:

A CAP in New Jersey received $577,000 from us but administers a $40 million program.

. The idea is to make sure we are mobilizing or leveraging or brokering other resources, within the Federal Government, among State and local governments, and from private sources to supplement what the CAP agencies are getting from us.

It serves two purposes. Not only adding funds and services to our programs, but sensitizing some of the other agencies to the needs of the poor and the existence of low-income people.

We have done a very good job of targeting our resources, given the extent of the need. I believe that the Community Services Administration has to continue being the laboratory that tests program ideas and demonstrates the ability to get things done through community action.

We must also promote integrated self-help systems in poor communities which can integrate a variety of approaches.

In other words, if we are going to do any rural water and sewer projects there should be a combination of community development, public health, renewable resources, and economic development in an integrated system.

If we are going to do urban food production, that should integrate recreation, environmental enrichment, income stabilization, and solid waste management, all in a comprehensive program.

We have been rediscovering a whole series of poverty problems that are tangled up in a complex, modern human services system.

We are also reconfirming something else. That is that the Community Action agencies in our network of grantees to this day continue to be the best vehicle for bringing services to low-income people at the local level.

We have discovered that they are constantly called upon by the CETA network, by the Department of Agriculture food programs, by HEW health programs, by the Administration on Aging, and even Governors, and when given a choice of selecting a delivery network to perform services, have selected our community action agencies.

Just yesterday we received a letter from Senator Ford from Kentucky commending our Community Action agency for being able to mobilize immediately to meet a disaster situation in Kentucky.

So we feel our network of the Community Action agencies and other grantees continue to be the most effective way for addressing the needs of low-income people.

I am now ready to answer any questions you might have.

NATIONAL DEMONSTRATION WATER PROJECT

Senator BURDICK. Do your staff people have anything to add at this moment?

OK. I understand several years ago CSA commissioned a national demonstration water project to do a study on the status of rural community action and to develop recommendations as to how CSA could best serve rural needs. The study, I am told, contained several recommendations such as the need for CSA to develop a rural factor to be applied in all Federal programs to take into account the unique characteristics of serving rural populations.

Can you tell me briefly how CSA implemented these recommendations and what the results have been?

Ms. OLIVAREZ. First of all, the national demonstration water project received a total of $8 million over an 8-year period to demonstrate if you made available small amounts of money to many local groups, plus technical assistance, you could mobilize resources and institute rural water and sewer systems.

In the process, we felt that the needs that had been identified by that study were beyond the capability of CSA.

In other words, that program estimated that the needs over the next 10 years to get adequate rural and water systems throughout the Nation would be in the neighborhood of $10 billion.

As a result of that, and because they were expanding and because we are a demonstration agency, we recommended that agencies that were water and sewer-oriented, like the Department of Agriculture and EPA should assume the responsibility for this program.

As a result of that, that program is now being funded through a variety of sources from other Federal agencies.

In addition to that, as we held 10 public forums 1½ years ago, we discovered there was a lot of neglect among Federal agencies toward rural areas. When we requested $15 million in demonstration money, we did it with the idea that $6 million would continue to go into our rural housing programs and the majority of the rest of the money would be targeted for special programs and demonstration programs in rural areas, particularly in the area of transportation and meeting the health needs.

We are already doing things in rural housing. Our emphasis will be on rural development.

Senator BURDICK. In short, you made the study and found you don't have the capability moneywise to do anything more?

Ms. OLIVAREZ. Except by having that project now funded through other agencies, they are getting a lot more money than if they stayed with us.

Senator BURDICK. Is that closed since you made that study?

Ms. OLIVAREZ. No; that is why we continue to put emphasis on rural development in our 1980 request, and even in 1979 our demonstrations are targeted and concentrated in rural areas.

DELIVERY OF SERVICES IN RURAL AREAS

Senator BURDICK. What if any allowances are currently made for the special costs associated with delivery of CSA services to rural areas, such as transportation expenses? We in North Dakota have seven CAPS and the average size is 10,000 square miles.

How is this extra expense handled? Does it come from program funds or are special funds provided for this purpose?

Ms. OLIVAREZ. As you know, the seven CAP agencies in North Dakota are fairly new. It used to be a statewide program administered by the State Economic Opportunity Office.

In terms of the funding, may I ask Mr. Smith to amplify?

Mr. SMITH. In distributing the $39 million local initiative increase which we got from Congress in fiscal year 1978, we set aside money to go to the smaller rural CAPS to increase their administrative funds and increase their capability to deal with these problems you cite.

Approximately $2.2 million out of the $39 million specifically went to these types of smaller rural CAPS.

Ms. OLIVAREZ. Senator, I visited your State not too long ago, and I think the distances are so overwhelming that the needs, particularly in the area of transportation, have to be shared by the Department of Transportation along with other sources of funds.

They do have some vans, they do provide transportation.

DUPLICATION OF EFFORT

Senator BURDICK. In the answer to two of my questions, you have referred to other agencies to complete the work.

Are we duplicating here?

Ms. OLIVAREZ. No; what we do is test the concept and if it works, then it's spun off to another agency. Head Start went over to the DHEW. Job Corps went to Labor. VISTA went to ACTION. Legal Services became a Corporation.

The migrant programs were spun off.

The national demonstration water project was also spun off.

As we test a set of programs or ideas and we find it does work, it's spun off to the agency with the primary responsibility for that type of effort.

Transportation, obviously, has transportation money. All we have is demonstration money.

Senator BURDICK. You are a testing lab?

Ms. OLIVAREZ. Yes, sir.

Senator BURDICK. If it works, you recommend somebody else do it?

Ms. OLIVAREZ. Yes. Normally, we find that the minute we spin a program off, the appropriation doubles.

SMALL FARMERS CONFERENCES

Senator BURDICK. Your opening statement mentions how you cosponsored jointly with the ACTION Agency and Department of Agriculture a series of conferences to explore problems of small farmers.

What specific farm problems did these conferences focus on and what is being done to find solutions?

Ms. OLIVAREZ. We let the small farmers help us put the agenda together.

What came out is that small farmers, particularly those that are family run, as their sole source of income, have almost the identical problems of poor people everywhere. One of the major problems they had was the lack of knowledge on how to approach other Federal agencies for assistance.

They had some questions about the Government's export-import policies. They had some concern about the neglect that they felt all agencies imposed upon them, because they are small and because they are not major entrepreneurs, they feel they don't get the attention or the respect they require.

We are now addressing those issues through interagency agreements with the Department of Agriculture too.

Senator BURDICK. What definition did you use for small farmers here?

Ms. OLIVAREZ. We didn't use acreage. In North Dakota, a small farmer can have very large acreage. We used primarily net income to determine what a small farmer was, as opposed to acre size of the farm.

Senator BURDICK. What did you recommend?

Ms. OLIVAREZ. We didn't recommend. They recommended to us that we offer them technical assistance and training in approach-

ing other Federal agencies that had the necessary funds to help them with loan programs, for example, or with housing.

The recommendations varied from region to region. You get into the southwest region and one of the major problems is the constant lowering of the water table in the high plains area, which means they will have to come up with alternatives to farming. If that water table continues to drop, they will not be able to continue as farmers.

In some areas, the concern was the lack of responsiveness from State and Federal agencies. In other areas, it was legislation that needed to be changed to protect the small farmer. In that respect, I refer again to their concern about some of the export-import laws.

Senator BURDICK. Here you found the problems and recommended somebody else handle them again?

Ms. OLIVAREZ. That is primarily our job.

Senator BURDICK. Well, could you be specific? What problems did you find most affected small farmers, other than income?

Ms. OLIVAREZ. Lack of knowledge of how the system works. They really don't know what is available, what they qualify for, what assistance is available.

Senator BURDICK. There are county agent offices all over the country.

Ms. OLIVAREZ. That was another complaint. The county agents sometimes concentrate on the larger farmer rather than on the small farmer. We heard complaints they will approach county agents over and over again for help in an apple orchard operation, and the county agent would not show up, would not respond, and ignored the small farmer because they concentrated on the larger farmer.

These concerns help us sensitize the other agencies to the kind of problems they have been overlooking at the local level.

Senator BURDICK. I haven't heard of that discrimination in my State about the county agent's office. They treat everybody who comes in the door.

Ms. OLIVAREZ. It varies from State to State.

RURAL DEVELOPMENT

Senator BURDICK. Your budget includes $3 million for a new rural development program. What types of projects and how many do you expect to fund with this money?

Ms. OLIVAREZ. Our budget is $15 million for demonstration; $6 million of that will go to rural housing projects; $3 million——

Senator BURDICK. Rural development.

Ms. OLIVAREZ. That will continue the efforts we started this year. We are working with families and women in rural areas.

For example, in your State there was a problem of battered spouses that had no recourse. They had no place to stay while the spouse at home cooled down. We are in the process now of working with rural communities in establishing shelters for battered spouses. It's not always the wife who gets battered; sometimes it's the husband. We are in the process of doing that type of experimentation.

In addition to that, we established family crisis centers where we can handle the problem of a family all together rather than sending one member of the family to one agency and another to another agency and breaking up the family. We are trying to bring all the services together in the family crisis center.

In addition to that, we are working with children, because 40 percent of the low-income people in our country are under 16. So what we have done is establish centers that are replacements for a home environment.

Senator BURDICK. $3 million for rural development; that doesn't sound like taking care of battered wives. Is that part of rural development?

Ms. OLIVAREZ. It's part of the emphasis on rural issues. Mr. Smith may want to elaborate.

Mr. SMITH. A lot of that money will be allocated to develop, eventually, six regional technical training centers to deal with the rural issues. These centers will provide rural communities with help on how to go about getting money for water and sewer systems and will provide training and technical assistance for leveraging money from Farmers' Home or from other agencies that spend funds in rural areas.

Some demonstration money will be earmarked for rural transportation. Within rural communities, we find rural transportation continuously ranks as a major problem. We are looking at how we can put money into projects that would leverage local money in developing a comprehensive rural transportation systems.

Another major area for demonstration moneys would probably be rural health. We hope we can start to look at some of the problems encountered within rural communities in the health area and will try to work out some sort of plan of innovative attack in this area.

Senator BURDICK. We have other Federal agencies doing the same things.

Mr. SMITH. We have found a need for these types of rural demonstration projects.

Senator BURDICK. We have a very comprehensive health program that goes down to the grassroots, including health planning.

Mr. SMITH. We don't intend to duplicate. Where programs have not been able to reach out and access those people, we are trying to find out how those existing programs can be made to work for them. Specifically, if there are available Federal programs and funds, we want to help people living in rural areas take advantage of them. For example, we are finding that there are available modes of transportation to get people to those health centers but there hasn't been comprehensive planning on how that can be accomplished.

What we have tried to do is identify areas and within those areas, look at what gaps exist, we try not to duplicate anything that already is in operation. I think probably the best example——

Senator BURDICK. We don't have to have anybody tell a cooperative group in North Dakota they have to go to Farmers Home or someplace for a water system. They know where to go.

Ms. OLIVAREZ. That's not true in some of the Southern States. For example, go to Alabama or Mississippi or Tennessee, and there

are people who don't even know there is such a thing as an economic opportunity program.

Senator BURDICK. They must have some leadership. They form these groups and cooperatives. They move in that direction. Somebody must understand these things or they couldn't get that far.

Ms. OLIVAREZ. The problem is, a lot of people have not gotten that far. We heard from about 650 people in 10 public policy forums. Most of those people came from rural areas and were expressing lack of knowledge, concern because there was lack of services. Not everybody is as knowledgeable and sophisticated as we tend to believe after 15 years of so much social service legislation.

Mr. SMITH. One of the best examples is in Farmers Home. We have discovered that a lot of the packaging done to mobilize the money from Farmers Home and HUD funds has been done by our community action agencies. In fact, we packaged probably over $450 million for rural areas and have helped people within rural areas package applications which have leveraged money from other agencies.

We know money had been turned back in Farmers Home, and in our analysis most of the money directed at the poor is being leveraged and through the packaging efforts of the Community Action agencies around the country.

We have found out that that need continues despite the fact that there are a lot of groups actively involved in it. These groups still don't take care of all the need that exists for that type of technical assistance.

Mr. JONES. Frank Jones, general counsel.

Studies of our demonstration programs are consistent with those of the administration, which suggest that the problem is better targeting, to making sure these moneys get to the people for whom they were appropriated. For example the Rural Development Loan Fund, has had for 5 years, some $46 million which has not yet been distributed. CSA was sued on this issue after the money was transferred to the Farmers Home Administration.

The process by which these loans were distributed didn't target on the hardcore poor; 5 or 6 years after the legislation was passed, $46 million is lying there, held by the Treasury. That is an example of targeting the agency is trying to do, which has been identified.

Senator BURDICK. Maybe there were constraints in the regulations from Washington.

Mr. JONES. We didn't find that. In all candor, one of the problems is focusing on the really low-income people.

The Director mentioned a few moments ago the feeling of small farmers that the kind of priority attention to their needs has not been given by the larger agencies. We understand large agencies have a much larger interest and concern with the general populace. CSA tries to focus on those gaps and bring them to the attention of the larger agencies.

Part of our responsibility is to demonstrate what the needs are, try to develop processes that work, and pass those on to the larger agencies which have the money, encouraging them to focus on these concerns.

Senator BURDICK. Perhaps I'm confused because we don't have many small farmers that, perhaps, need targeting. Most of our farmers are quite sophisticated and know where these agencies are. I understand what you're saying. A lot of areas don't have that sophistication and knowledge.

Is that what you're telling me?

Ms. OLIVAREZ. Yes, sir.

RURAL HOUSING

Senator BURDICK. How does your rural housing activity differ from those of HUD and Farmers Home Administration, outside of the targeting you described?

Ms. OLIVAREZ. We get $6 million for our rural housing program. The $6 million generated last year $102 million from other sources.

It differs from them in this respect: Our programs are designed, first of all, to make sure that people who are coming to apply for Farmers Home Administration loans, for example, understand the process, how to fill out the forms, how to qualify, et cetera. So we do counseling in that manner and packaging in that manner.

In addition to that, we provide them with land development and construction assistance. We provide rehabilitation and repair of substandard housing. We provide loans to low-income families, small amounts of loans.

We also fund in Kentucky, for example, a housing factory. When they discovered most of the people couldn't afford what was in existence, they put together a housing factory that created employment and, in addition to that, were able to produce, not prefabs, but modular sections of a home that the family themselves could put together. We call it "sweat equity." For that reason, they could afford homes of three or two bedrooms that, before, they wouldn't have been able to afford, because of the factory itself being able to do it for less money. That's something that Farmers Home isn't doing, and neither is HUD.

The counseling becomes very important, because some people don't know there is a grant and loan program from Farmers Home Administration and how they qualify for that. We provide quite a bit of technical assistance to rural people in the area of rural housing. Again, as I said, the sophistication isn't there everywhere.

Senator BURDICK. We had a similar housing factory up in an Indian reservation in North Dakota some years ago. I lost track of whether it's still running or not.

Ms. OLIVAREZ. I don't think it's one of ours.

Senator BURDICK. That may have been otherwise sponsored.

How do you set these up?

Ms. OLIVAREZ. The local community makes the determination as to how they want to operate that factory. As a rule, it's not a profitmaking operation. However, they are able to pay salaries and they are able to create employment. The idea is to produce homes.

Senator BURDICK. Somebody has to be the manager. Is it privately owned?

Ms. OLIVAREZ. It's a nonprofit corporation.

BUDGET REQUEST FOR COMMUNITY ACTION AGENCIES

Senator BURDICK. You'are asking $381 million for community action agencies, an increase of $12 million. Specifically, what services do you expect will be provided with this money?

Ms. OLIVAREZ. We plan to continue strengthening the management capabilities of some of the smaller community action agencies. We expect to be able to reach out and cover some areas that at this moment are not covered by Community Action agency activities.

We will not be able to give a cost-of-living increase because of the small amount of money, but primarily we expect to be able to strengthen administrative capacity of the smaller grantees' Community Action agencies, and a small amount of expansion.

Senator BURDICK. Will you tell me how many people will be served in fiscal 1980 compared to 1979?

Ms. OLIVAREZ. I'm afraid not. We can do that for the record.

[The information follows:]

The principal use of the funds would be to strengthen administrative capacity of our current grantees, which does not increase the service coverage area, but provides increased quality of service. The effect of increased service coverage is not known due to the decision process. Later in the year regional offices will be given the priorities discussed above and asked to assess the relative needs within their states. After this step is concluded, a national plan will be developed, which will show the increased number to be served.

POVERTY POPULATION

Senator BURDICK. What is the record of the Community Action agencies in reducing the number of people in poverty? Do you have facts or figures to indicate you are making progress?

Ms. OLIVAREZ. When the program started in 1964, the estimated number of low-income people in the country was in the neighborhood of 32 million persons.

In 1978, the estimated number is 25 million persons that qualify under the poverty guidelines.

In that respect, I would say 7 million people have moved out of poverty. There are individual stories that we can talk about.

For example, Congressman Mitchell was the Community Action agency director in Baltimore. Congressman Dellums was involved in the Community Action program. When the program started, there were only 74 black elected officials in the Nation. There are now more than a thousand.

A study that was conducted by the University of Wisconsin indicated 77 percent of these officials had gotten their first exposure to agencies, to nonprofit corporations through the Community Action agency boards and programs.

We have people who started working for us in a clerical capacity who are now holding master's degrees because of the exposure they got for the first time to this kind of effort.

We feel very strongly the success stories are really monumental.

Senator BURDICK. It's very commendable that you have taken that many people out of poverty, but it doesn't show up in the national statistics on unemployment.

Ms. OLIVAREZ. But we managed to get 7 million people moved out.

Senator BURDICK. Is that a twilight zone, a place between the poverty level and unemployment? Some other category?

Ms. OLIVAREZ. Yes. For example, let me give you an example of 7 million people that fall under our poverty guidelines.

We have 7 million people so-called disabled or handicapped. I would say 50 percent of them are employable, have adequate skills, are eager to work, but because we haven't done barrier removal, because we haven't made the necessary adjustments, we have 7 million people depending on some kind of Federal subsidy to subsist whereas if we were able to be more committed to removing barriers and giving the disabled an opportunity, we could prove that they are employable and can produce.

Senator BURDICK. Fine, but I want to get back to this number. How many moved out of poverty?

Ms. OLIVAREZ. The figures show 7 million.

Senator BURDICK. Why don't we have a corresponding reduction in the unemployment rate?

Ms. OLIVAREZ. Because new people keep moving in to be employed in the labor market. It's a dynamic process.

Senator BURDICK. The net really is 7 million.

Ms. OLIVAREZ. When you consider that population and employment did increase in those years——

Senator BURDICK. You move seven out and seven more came in behind them.

Ms. OLIVAREZ. It's dynamic. Some move out and slip back. Given inflation today, it's easy to slip back into poverty, particularly if you are only out of it for a year or so.

UNRESOLVED AUDITS

Senator BURDICK. In a report to Congress last October, the Comptroller General found CSA has unresolved audit reports involving over 30 million.

What steps have you taken to correct this situation? How many of these audits have been resolved? What steps are you taking to avoid a recurrence of this situation?

Ms. Olivarez. Frank?

Mr. JONES. To explain the audit process, by way of introduction, the external audit division of the agency reviews the working papers of the CPA's that do the audit work for our grantees.

We have 1,500 grantees. The backlog of audits developed because we questioned the costs of various expenditures that these grantees made.

One of the problems that we found last year was that the method by which the external audit division questions or reviews the audits resulted in a great many more, $34 million, in questioned costs.

What we have done is tighten up our audit processes resulting in even more questioned costs.

As you question and resolve these costs they continue to grow. We are trying to reduce the backlog. We put in a system requiring the regional offices and audit personnel there, to embark upon a crash program for doing so, and I will give you figures in a moment.

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Each year, with 1,500 grantees, we are questioning more and more costs which means that the more we catch up, the tighter our controls are, the greater the volume of questioned costs.

It's a process by which you clear up audits, on the one hand, and increase more unresolved costs on the other. With that background, let me present some figures.

At the beginning of fiscal year 1978 we had unresolved questioned costs of $29.1 million. By the end of 1978, we had additional $34.6 million in questioned costs.

The total cost to be resolved for 1978 therefore, was about $64 million. Our figures show in 1978 we closed or resolved $15.6 million.We closed an average of $1.4 million in questioned costs per month in 1978.We initiated in fiscal year 1978 a crash program to try and catch up with the backlog questioned costs which go back several years.

As the system we put in place took hold, we look at 1979. The first 4 months of fiscal year 1979. Between October 1, 1978, and January 31, 1979, we questioned an additional $13.2 million which gave us a total of $61.1 million.

As of today, the first 4 months in the fiscal year 1979, we have reduced that figure by $11 million.

That shows that we are closing or resolving questioned costs at a rate of $2.7 million per month this fiscal year as opposed to $1.4 million per month last year.

We are increasing the frequency with which we close these questioned costs. Looking back to fiscal year 1978 and the first 4 months of fiscal 1979, we resolved $26.6 million, that is, $11 million in fiscal year 1979 and $15.6 million in fiscal year 1978.

Senator BURDICK. The first 4 months in 1979?

Ms. OLIVAREZ. Fiscal year.

Mr. JONES. October until now. I am giving you the latest figures we have.

Senator BURDICK. October through January.

Mr. JONES. That's right. To give you a sense of how the system is catching hold in terms of the figures, in October of 1978, we closed $600,000. In November, we closed $1.9 million, in December, 1978, we closed $3.2 million. In January, 1979, we closed $5.3 million in questioned costs. We have closed $11 million in questioned costs in the first 4 months.

Let's go back for a moment and look at the figures to get some sense of how these questioned costs develop. We are talking about questioned costs and opened audits. We have two categories of audits that we call unresolved or open audits. One relates to cost issues. The other category relates to noncost issues. We have a number of open audits going back 6 years which are noncost related. They arise out of adequate but weak accounting systems. We questioned those systems.

These audits are left open until such time as these noncost problems are corrected. Noncompliance with grant conditions, deficiency of non-Federal share. When programs were paying 30 percent non-Federal share, they could not find the money or in kind contributions and many of these questioned costs arose as a result. Now, we are back to 20 percent non-Federal share.

Many of the open audits with cost questions amount to less than $5,000.

We have 275 audits that have less than $5,000 questioned costs. The reason I attempted to answer in such detail is because the overall figure for open audits would suggest that the number of open audits and unresolved questioned costs continue to rise.

In fact, that has been true. But it's true because of the numbers of very small audits the terms of questioned costs and the large number of audits we are required to do each year. If we had the personnel, and we would have to do that at the expense of another division of the agency, we could question even more costs but the more costs you question, because of either additional audit staff or improved techniques, the more people you need to resolve those costs, that is, nonauditors—program people. It's the field representatives that play a key role in resolving these questioned costs. What we have tried to do is reach a balance by tightening up on the whole procedure we use to question costs which results in more questioned costs and at the same time, maintain the personnel and programs to provide technical assistance and training to these programs so we don't have so many questioned costs.

The overall figures will suggest that we are probably holding our own but if you look at it simply in terms of the aggregate amounts, it will appear we have as many questioned costs now as we did last year.

The point is, however, that we have a process. If you look at the first 4 months of the year, we have closed an unprecedented amount of questioned costs.

Senator BURDICK. You are not slipping backward?

Mr. JONES. No. We have a target date of March 31 to have all questioned costs closed out going back prior to 1978. We have the people in the regions working on it.

Senator BURDICK. How often do you find irregularities?

Mr. JONES. Well——

IRREGULARITIES FOUND IN AUDITS

Senator BURDICK. Illegal irregularities?

Mr. JONES. When you ask that question, it seems to me my answer has to be put into context.

We have 1,500 grantees. My inspection division and audit division, deals with questioned costs and various irregularities. In relative terms, considering the whole panoply of grantees, I would say it's infrequent.

However, when we find it, it invariably gets a lot of publicity. To give you a figure, it makes it appear these things are happening all the time.

Let's look at the figure. We had out of some 1,500 grantees, with a more effective investigative and audit system, 22 indictments and 12 convictions last year from all the programs in the country and we are working with U.S. attorneys and FBI in a whole range of places. My answer to the question how often do we have them is that, in relative terms, we don't have them very often.

FINANCIAL MANAGEMENT IMPROVEMENTS

Senator BURDICK. What improvements have you made in procedures for monitoring the financial management of grantees? Under these new procedures how many grantees have had funds suspended or denied as a result of financial problems uncovered? This relates to what we were talking about, but it has to do with management. What is your planned schedule for auditing community action agencies and community development corporations?

Mr. JONES. Let me start and somebody may want to jump in.

The programs the agency closed for noncompliance, irregularities, or inefficient use of Federal funds, amounts to an average of two programs per month for the last 19 months. That would suggest that there is more effective monitoring going on.

In terms of the second part of your question, the procedures we use to improve our audit, it was suggested in the same report you cited that the agency contract directly with the audit firms.

Our analysis of that suggestion indicated it would be enormously expensive to bring on administrative staff, to do the contracting.

What we are talking about is a national bidding and monitoring process. What we decided to do was to carry on an experiment in the State of New Jersey.

We had difficulty getting that off the ground.

We have been working with the SBA to get an 8a contractor there to do the work in an experiment with direct contracting for CPA's in the State of New Jersey.

What we decided in the meantime was to initiate a quality assurance program under which we select a statistically sound sampling of community action agency auditors and review their work product very carefully.

From this program we are developing a new audit guide to come out sometime later this year. As a result of our quality assurance program we have suspended or put on probation a number of CPA firms we found weren't doing the kind of job that should be done.

Mr. Smith may want to add to this.

Part of the problem, in candor, is that the agency has had difficulty over the last several years getting the necessary field representatives to monitor programs out in the field adequately.

The audit staff and financial management staff of the regional office provides training to the people keeping the books of our grantees, but we need more.

The problem of staffing and providing this kind of training has been one this agency, along with all other agencies in government, has had to labor with.

BONDING OF CAA ADMINISTRATORS

Senator BURDICK. Are any of those who administer the community action programs bonded?

Mr. JONES. No; the programs themselves are not bonded. It's not a requirement—let me explain.

The Community Action agencies are not-for-profit corporations established under the laws of the State in which they are located. If, in fact, an individual is in a position of trust of some sort that

Community Action agency board of directors would insure that he or she is bonded.

In the normal course of activity, Community Action programs are not bonded but we do require bonds of the executive director and those employees with financial responsibilities.

Senator BURDICK. I presume some of them handle considerable amounts of money?

Mr. JONES. Yes.

Senator BURDICK. What happens if there is embezzlement?

Mr. JONES. We do what we have done with the 22 I mentioned.

Senator BURDICK. You put them in jail but don't get the money.

Mr. JONES. Let me explain that. There are the civil fraud actions that the Government takes to recover moneys. We don't have independent litigation authority.

We have asked the Justice Department on several occasions and the U.S. attorney's office to go after the money. We think we have one demonstration going in Salt Lake City where we are going both criminally and civilly to recover the money.

One of the problems is we don't take the necessary action to recover the money. We go after them criminally, but don't recover the money.

Maybe a broader bonding program is a solution. We haven't looked at it. It may be that the cost of this type of bonding would outweigh—would add an awful lot of additional administrative moneys to a program's costs.

Senator BURDICK. Putting a bond on a good man doesn't cost too much.

Mr. JONES. I haven't done a study.

Senator BURDICK. At least, those people we are talking about aren't bonded.

Ms. OLIVAREZ. When a Community Action agency is sponsored by a city or county, the employees usually become city or county employees.

If they will be handling money and signing checks, as a rule, cities and counties require that they be bonded.

Senator BURDICK. They are bonded, because of their actions in the community, not for their particular activity.

Ms. OLIVAREZ. They are bonded for the money they are handling. They are not just handling our money. Sometimes they handle Labor money and HEW money and State moneys. They are bonded.

Mr. SMITH. I think you will find across the country that CAP directors are bonded.

Senator BURDICK. Fine.

Ms. OLIVAREZ. Better collection on the bonds is a good suggestion. We ought to look at it more carefully.

Senator BURDICK. It just removes another criticism of the program.

Mr. SMITH. When you are discussing the financial management or fiscal management of CAPS with the increase that Congress gave us last year in local initiative funds, over 700 people were hired by Community Action agencies across the country to strengthen their financial management systems. That was one of the real values of that increase.

In addition, we are providing our field staff with signiciant training and technical assistance to help out CAPS within this area.

More importantly, we are looking at an approach to train people to go into CAPS, so that they might be able to provide significant help to Community Action agencies in the fiscal management area.

We are trying to identify around the country those agencies that have good fiscal systems where good people are available and where we can utilize their expertise in helping our community action agencies strengthen their fiscal management systems.

These are a variety of approaches we have or intend to initiate in order to strengthen that system within CAPS.

ENERGY CONSERVATION

Senator BURDICK. Why are you spending only $10 million for weatherization energy conservation activities in the fiscal year 1979 continuing resolution, since the 1978 appropriation of $65 million would seem to give you another $55 million?

Ms. OLIVAREZ. There was language in the conference committee report that made it clear that the continuing resolution didn't intend to include the $55 million for weatherization. That program had already been spun off to the Department of Energy to administer.

In reading and interpreting that language, we found out that we only had $10 million in energy conservation as opposed to $65 million.

Senator BURDICK. The staff says they don't recall that being in the conference committee report.

Mr. GABUSI. The language was in the statement of the manager for the House, Chairman Mahon. In his explanation of the conference committee report, he indicated that the continuing resolution provided that the moneys had otherwise been appropriated to the Department of Energy that is, $199.6 million for weatherization which subsumed the $55 million. Therefore, the continuing resolution only contained the $10 million out of the total $65 million which was in the original 1978 appropriation.

We had informal conversations with the Comptroller General's staff, and they confirmed that opinion.

Senator BURDICK. This must be in the record.

Mr. GABUSI. It is.

Mr. JONES. We have done an opinion on it also and have been in contact with the Comptroller General.

It's our opinion that $55 million had already been provided for in another appropriation.

Senator BURDICK. Was this the conference report that was debated that day?

Mr. GABUSI. It was a statement of the manager for the House conferees, Chairman Mahon, a statement before the House.

Mr. JONES. It's the only reference to that particular issue.

Senator BURDICK. He wasn't representing the conference.

Mr. GABUSI. It was his explanation of the continuing resolution.

Mr. JONES. It was the only explanation in the entire legislative history that relates to that.

Senator BURDICK. Nothing was said in the Senate?

Mr. JONES. Nothing.

Senator BURDICK. So you followed his interpretation?

Mr. JONES. We actually looked at the legislative history. We wanted to come out a different way, obviously.

Senator BURDICK. You followed Mahon?

Mr. JONES. Yes.

ENERGY RESCISSION MESSAGE

Senator BURDICK. How can you justify not sending Congress a rescission message, if you don't plan to spend the full $65 million available?

Ms. OLIVAREZ. There was nothing to rescind.

Senator BURDICK. Under that interpretation.

Ms. OLIVAREZ. That's right.

You don't want us to wind up spending $55 million and find out later we really didn't have it.

Senator BURDICK. There have been reports that some Community Action agencies are suffering significant losses of CETA job slots for weatherization programs.

To what extent have you had complaints from the Community Action agencies of loss of slots? What steps are you taking to remedy this situation?

To what extent is the shortage of slots holding up the weatherization of low-income homes?

Ms. OLIVAREZ. We had significant numbers of complaints from the Community Action agencies.

By the end of fiscal year 1978 we were about 7,800 CETA slots below what we had prior to that. We then initiated a series of discussions with the Department of Labor and the Department of Energy. We have been meeting with them since last year, July.

We have come to an agreement that the enforcement or followup will be done at the regional directors' level of these three agencies but, unfortunately, we have not seen any results from all those meetings.

We still are short CETA slots. We are not weatherizing homes the way we should be doing it.

We project that by the end of this fiscal year, if something doesn't happen we will be about 15,000 slots below optimum necessary to weatherize the homes that could be weatherized, given the appropriation given to the Department of Energy.

Senator BURDICK. If you don't do it soon, there won't be a need for them.

Ms. OLIVAREZ. That is one of the problems. We have been looking at alternative ways of supplementing that labor, but it's very difficult.

CURRENT CSA WEATHERIZATION ACTIVITIES

Senator BURDICK. What weatherization are you authorized to do today? I understand some of it was transferred to another agency?

Ms. OLIVAREZ. Right now about the only thing we are doing is through the National Bureau of Standards, we are working on a demonstration project to see the optimal level of weatherizing that can be done, at what cost, to really bring down utilities cost. Other

than that, it's only the Community Action agencies at the local level who are conducting any kind of weatherization.

Given the CETA slot shortage, we more or less projected that 350,000 homes will not be able to be weatherized.

Our weatherization projects now are limited to that demonstration project, because we don't have the funds for materials and for the necessary tools.

1979 ALLOCATION OF CRISIS INTERVENTION FUNDS

Senator BURDICK. Can you summarize briefly the way you plan to allocate the $200 million in fiscal 1979 crisis intervention program funds? How much has been allocated to date? How much of the $200 million available for crisis intervention activities could you anticipate spending during fiscal year 1979? What are the criteria for a region to be designated a disaster area by a Governor? Under your new funding mechanism, how long does it take to get aid to recipients in a designated disaster area? I think that will give you the five-part question.

Ms. OLIVAREZ. First of all, we have already sent out to the States $15 million for immediate use in crisis situations. $6.4 million was set aside for administrative costs. That left us $179 million for Indians, migrants, and State emergencies. States could qualify for the latter by any one of four methods. First, if a Governor indicated to us in writing that his State was having severe cold or that as a result of energy emergency, the State was willing to put up some money in order to help out, then some money could go out to that State.

If there is shortage of fuel in a particular State or area of the State, they could qualify for the additional funding from the $179 million, or if they have had a 20-percent increase in utility costs from May of last year to today, or if they had extreme and unusual cold weather. Under anyone of those four conditions, Governors can come in and request what we call supplemental money from that $179 million that remains.

In addition to those four emergencies, we interpret disaster different from a crisis. A disaster we will recognize only when the Federal Disaster Assistance Administration so declares a disaster exists. Other than that, we can deal with crisis in particular States or areas of the State.

As of right now, we have already committed $54.5 million of the total $200 million. Of the States that have requested it so far, Connecticut put up $2 million of its own State money in order to bring in the additional money. Illinois was declared not only a disaster but has all the other four requirements. They came in for supplemental money.

Wisconsin put up $2 million and was granted $5.3 million. Oregon has not had a disaster. They have had ice storms. They have qualified for about $1.8 million in the supplemental money. Minnesota has also had very serious problems. We have set aside right now tentatively $7 million for them. We are dealing with Montana and Iowa now, which are the other States that came in under the supplemental section of the money that we have.

We have now seven States that have applied.

DECLARATION OF DISASTER AREAS

Senator BURDICK. I understand the President's declaration is necessary to trigger relief.

Ms. OLIVAREZ. The presidential declaration of disaster is necessary to qualify for disaster supplements, but States can have crisis situations either in the entire State or areas of the State caused by the winter and that will also trigger eligibility for supplemental money. Or if there is a fuel shortage.

Senator BURDICK. Is that determined by the Governor solely?

Ms. OLIVAREZ. The Governor with me and our regional director.

Senator BURDICK. You have given me an idea. We have a continual crisis in my State based on this.

Ms. OLIVAREZ. The problem is that there is such a thing as a continuing crisis in some of the States that have very severe——

Senator BURDICK. Twenty-five below zero for 60 days? That is normal living out there.

Ms. OLIVAREZ. But not in places like Texas.

Senator BURDICK. You have Minnesota and Montana.

Senator MATHIAS. Would you ask Gar Kaganovich back there to pull back the curtains? I want to make a point now. Thank you Gar.

Senator BURDICK. You take over, Senator.

Senator MATHIAS. That is Maryland out there and the snow is falling. We allowed the Federal Government to temporarily occupy some portion of it, but that is Maryland. We have some real problems. Here is a very touching communication that I received. It's a reply to a letter of mine in which a constituent says:

> Dear Sir: I would like to know if we are going to be helped with our oil bills this year. We received $250 last year. Our oil bill was $295.90. We live on social security pensions. My wife who is 75 years old receives $188.70. I am 76 years old and receive $104.30. Total income, $293.
>
> We find it hard to meet ends in the winter.

I don't know, Mr. Chairman, if you really brought on this snowstorm to underline this subject or whether that is a dramatic coincidence.

Senator BURDICK. I was getting homesick. [Laughter.]

CRISIS INTERVENTION PROGRAM

Senator MATHIAS. If I could make a very brief statement to outline my concerns, I believe that the Congress intended the crisis intervention program to try to guarantee the working poor and elderly access to at least a minimum amount of fuel which is required to keep them in health and a reasonable degree of comfort.

Not luxury but health to a reasonable degree.

We provided $200 million to carry out this goal. But it seems to me the way in which the regulations have been written have severely hampered the States' ability to qualify for the program, which I would think, as one who participated in shaping the program, is inconsistent with the intent of Congress and with the will of Congress.

As this very genuine communication indicates, the past two emergency energy programs have been of great value in Maryland.

They have reached some 10,000 households and the cost of energy fuels, as we know, has increased since 1974.

The participants' incomes really haven't increased to any great degree. If the funds are not forthcoming, these people, the elderly, who have very limited incomes, will be forced to sacrifice some necessities to keep warm. Now I don't know that the administration has been all that supportive of CSA in the past, and I know that CSA had some administration problems.

But the value of the program, I think, has been proven in spite of all that and the States have administered it effectively and they have done it with an eye toward keeping administrative and operating costs to a minimum.

I would hope that we could foster those efforts and support them and supplement them rather than frustrate them.

I think it's important that we make every effort to remove the obstacles and support the program's goals so that people needing help can get it.

There are two issues. First of all, there is some question in my mind as to how much CSA allocated for the first round of crisis intervention assistance.

Is it $25 million or $15 million?

Ms. OLIVAREZ. It was $15 million for program with $6.4 million for administrative costs.

Mr. GABUSI. It left $179.6 million.

Senator MATHIAS. Fifteen with an additional 6 for administrative costs. So the administration of the program will cost close to 30 percent of the program.

Now Maryland, if we can take an example, is to get $340,000.

Mr. GABUSI. The total for Maryland is $358,000 on the initial program grant.

FUEL PAYMENT ASSISTANCE

Senator MATHIAS. How much of that is for fuel assistance?

Mr. GABUSI. That particular program can assist in a crisis for any individual problem that a poor person might come into at any moment. That individual could walk into his Community Action agency today and if there was a crisis relative to food or fuel bills——

Senator MATHIAS. You haven't earmarked any of it for fuel assistance?

Mr. GABUSI. The program is designed to meet any crisis situation, including a shortage of fuel.

Senator MATHIAS. You made no internal allocation of any sort for earmarking or designation?

Mr. GABUSI. You're referring to the supplemental program, which is the larger program. After a State request is made by a Governor, we then allocate on a preliminary formula basis, pending the work program estimates from the Governor, certain amounts of money to that State.

The director referred to some of these States in her earlier comment.

Senator MATHIAS. How much was allocated in Maryland?

Mr. GABUSI. The supplemental energy request has not been made by the Governor of Maryland.

Senator MATHIAS. Even on a preliminary basis?

Ms. OLIVAREZ. That's right.

Mr. GABUSI. The States we have are the States she indicated earlier.

Ms. OLIVAREZ. You mentioned several things that might trigger the State qualifying. The increased cost and the letter you were reading, the increased cost of utilities, for example, if the increase is from May of last year to today, if it was in the neighborhood of 20 percent, that is one of the other trigger mechanisms in the regulations that would qualify the State for coming in for the supplement.

Senator MATHIAS. In the $358,000 you allocated to Maryland, are you designating an amount for each cost?

Mr. GABUSI. Yes; the formula for administrative costs allows for either an $8,000 base per each Community Action agency or 15-percent of the program costs, whichever is greater. In some of the smaller rural community action agencies the amounts of money available under the 15-percent rule would not provide for one staff person to be available for any winter-related emergencies that might occur. We are trying to put in place a basic staff system so as emergencies or crises occur, someone is in place to handle those during the current winter.

CRISIS INTERVENTION ADMINISTRATIVE COSTS

Senator MATHIAS. We have about 20 grantees in Maryland. How much administrative cost could they consume assuming they used your allocation?

Mr. GABUSI. They would come in for $160,000.

Senator MATHIAS. About half the whole program for the State for administration.

Mr. GABUSI. Only of the initial grant. The initial allocation is designed to get that system in place in addition to providing some initial crisis money for individual cases prior to either one of the other criteria occurring such as the declaration of a national disaster by the President and/or any of the other five criteria listed in the regulations, any one of which could trigger the request by the Governor for the supplemental funds. That money would be administered by the people who have been put in place under the initial allocation.

Senator MATHIAS. Now, last year I am told that the local administration of Maryland knew in September what they could expect in the way of fuel assistance.

Mr. SMITH. As a matter of fact, the program was run last year in April and early May. I don't think the President signed it until late March and we ran a program that lasted only 6 weeks after the winter in fact had ended. The situation now is that we at least have been able to start distributing money when we have winter conditions.

Senator BURDICK. Was this like dipping out the ocean with a spoon? How do you know in April or May what the winter will be like? How do you know now? We have poor people in our area living on fixed incomes, too, all over the snow belt. How do you allocate this money? Do you do it on a percentage basis?

Ms. OLIVAREZ. The number of poor people, number of elderly in the State and relative cold weather.

Senator BURDICK. $200 million won't do anything.

Mr. GABUSI. That's one of the arguments.

Mr. SMITH. That's why we had to target it to crisis situations.

Senator BURDICK. If a woman gets $200 in social security and has a $300 fuel bill, she has a crisis. There are all kinds of situations like this.

Mr. SMITH. The sad fact is when you have the $200 million, you have to come up with ways that would best allocate those resources. That's why these regulations seem to be particularly harsh and only aimed at those people in very serious health and life-threatening situations.

Senator BURDICK. If you had more money, you would be more liberal.

Mr. SMITH. The restrictions are because there is a limited amount of money to deal with the severe problem. In terms of administrative costs, it's anticipated that the administrative costs for this program should be approximately 15 percent, which is what it was last year. The only reason we decided to put out money earlier this year rather than wait to pay administrative costs at the end of the program is because we believe we can manage a much more successful program and deal with a lot of these problems up front rather than not being able to have the personnel to deal with the type of case you cited. Hopefully, people are now on board in that CAP, wherever that individual lives, and would be ready to immediately aid that individual when he or she comes in.

Senator MATHIAS. Mr. Chairman, I'd like to address another problem I have with this program. For instance, I have here an article in which Kalman Hettleman, the director of the Baltimore City Department of Social Service, appointed by Governor Hughes as the State director for social services, says that he isn't surprised that the State's Office of Economic Opportunity doesn't know when Federal funds arrive to assist poverty level families buy heating oil for the upcoming winter. He goes on to say he is not surprised because the situation is nothing new. The funds usually are late. They are always haphazardly planned and delivered. They come in dribs and drabs which makes it impossible for the State agency involved to plan efficient ways to make sure the people who need emergency fuel get it on time, instead of as late as April.

Ms. OLIVAREZ. That's when we got the money. It was tied up in Congress.

Mr. GABUSI. In the last 17 months, we initiated and ran a total of $600 million for this type of assistance and it was a very difficult thing to administer in the context of a very short time period.

Senator MATHIAS. Did the administration ever come to this committee and say we need that money now? We would like to have a supplemental? We are having these problems? Ever?

Ms. OLIVAREZ. The administration did.

Senator MATHIAS. I don't recall. I sat at this committee for some years now, and was never advised by the administration that this was the problem. I think this committee would have been extremely sympathetic to that kind of plea.

Mr. Chairman, if I could introduce into the record the residential heating oil prices by region, which I believe are the bases for the standard, or at least one standard that you use under the supplemental crisis intervention program—is that right?

Ms. OLIVAREZ. That's right.

Senator MATHIAS. Is there any State, whether it be the Chair's State or the State of Maryland, or any other, that can qualify right now for funds by reason of the 20-percent increase in fuel costs this year?

Ms. OLIVAREZ. Montana.

Senator MATHIAS. That's the only 1 out of 50.

Ms. OLIVAREZ. Only seven States came in for supplemental money.

Senator MATHIAS. I'm talking about qualifying.

Ms. OLIVAREZ. Montana.

Senator BURDICK. With more money, there would be more qualifying.

Ms. OLIVAREZ. In addition, sometimes they are not using that because they qualify under the other three conditions.

Senator MATHIAS. But this standard only applies that a State can qualify only if shows 20-percent price rise in the current year or——

Ms. OLIVAREZ. Since May of last year.

Mr. GABUSI. It's one of five criteria, any one of which can trigger a request by the Governor for supplemental crisis money. Montana used that criterion.

Senator MATHIAS. I think that's a criterion that only allows one State to qualify, even if it's a great State, and that's a pretty tight criterion.

Senator BURDICK. It's tight if you have to deal with only $200 million and try to help the poor people.

Senator MATHIAS. There is great sympathy for this problem in this committee. Senator Weicker from Connecticut has worked with me on various kinds of fuel assistance programs. If you tell us you're having trouble getting this assistance to people who need it, this committee will respond. I can guarantee that. But if you don't tell us you're having problems, we have a hard time working with you and coordinating things with you.

Ms. OLIVAREZ. $600 million sent to us in $200 million sections over a period of 17 months to deal with this issue presented a monumental problem for us. We did the best we could the first and second year. This year one of the reasons we had to tighten up the definition of crisis was because of the need we know exists, and we had to limit ourselves to those situations that were really life-and-death in order to reach those who really might lose their lives or their health as a result of a winter or of a utility issue. That's the only way we will be able to reach those who are really on the borderline.

Senator MATHIAS. With elderly people, it seems to me we don't deal only with situations where you may physically freeze to death. A cowboy on the range, that type of thing is different. With elderly people, their health is fragile. Pneumonia is always lurking around them.

Senator BURDICK. Cowboys get old. [Laughter.]

Senator MATHIAS. We want to take care of them now. So the standards of dealing with elderly people are, it seems to me, a little different from talking about life-threatening situations with other segments of the population.

Mr. SMITH. Our programs aid the poor in both life and health threatening situations. It would be a sad state if we could not take care of those people who come into our agencies, be they old, young, whatever, who can show us a crisis situation.

We believe this program can do that. Elderly poor people who are experiencing severe problems, because of the winter, threatening their health should be able to come into Community Action agencies around the country and be helped in some form by this program.

Senator MATHIAS. Is this money you have, the $200 million, adequate to do that?

Mr. SMITH. We can manage the need. The need in terms of increased energy costs is staggering; however, we believe that this amount of money does provide us with a program which can take care of those types of crisis situations we have defined. That is the hope of this program, and I think that it is a very positive program for that reason.

Ms. OLIVAREZ. The problem is so serious that I have sent memorandums to the President pointing out the experiences we had, the need and the importance of coming up with some kind of interagency effort to meet the needs for next winter. We are trying to get ahead of the game.

Given the experience we had, we really need to look at the issue more broadly, bring in other agencies and come up with something that will address the needs in the future.

Senator MATHIAS. Refresh my recollection. What was your budget request for this last year?

Ms. OLIVAREZ. For the crisis intervention?

Senator MATHIAS. It was zero.

When they talk about $200 million, that is what Congress provided even though the President didn't request it. Last year we had in Maryland about 6,000 recipients of that aid. How many are likely to be assisted with the program as structured at the moment?

Mr. SMITH. I would imagine that will clearly depend——

ELDERLY ASSISTANCE

Senator MATHIAS. That is 6,000 elderly, so the record is clear.

Mr. SMITH. I would imagine that will depend on whether Maryland can qualify for the supplement program. If so, I would imagine those figures might be close. If they can't qualify for the supplemental, then there would clearly be a reduction.

Senator MATHIAS. I am not being unsympathetic with your problems. I am fighting with you. But with the regulations screwed down as tight as they are, isn't it likely that instead of helping about 6,000 elderly, we will help only about maybe 1,000 or so?

Mr. GABUSI. A couple of points. One, I think it might be helpful for the record if we provided you with the current status of Mary-

land's eligibility possibilities. I don't know what the criteria or status is. Your assumption is correct that it would be less.

Senator MATHIAS. I am afraid dramatically less. However, that is an adjective I won't impose on you.

Mr. GABUSI. I would make a second point regarding the request of the administration last year. While there was no request in the Community Services Administration budget for this type of crisis intervention, the Congress continued the appropriation on a one-time basis each winter.

Senator MATHIAS. We hoped the administration would budget it so it could be ongoing and continuing.

Mr. GABUSI. However, in the 1979 request for HEW, the President proposed a program that would be a substitute supplemental program to the one run that winter.

Now, in our current 1980 request, the President has proposed a permanent program, at a much lower level, but the institutionalization of it and the 1979 request for HEW is not included in this budget.

So we are at least moving in the direction of trying to establish a program which was part of the reason the director began these conversations on an interagency basis, to try to see if by next winter we can mobilize resources to assist in this problem in fiscal 1980.

Ms. OLIVAREZ. It has to be increased two ways. Senator Burdick, you pointed out in some States there is a year-after-year situation, and we ought to be prepared to deal with those States we know will get 30 inches of snow and 25 below weather.

The other part of the program that we have to be prepared to deal with is the unusual weather conditions that we are having.

When Los Angeles gets an inch of snow, and Arizona is having floods, while it's supposed to be a desert, we have to be prepared to deal with those emergencies too.

As regions change weatherwise, we really need to have a comprehensive approach to the problem. It's not a winter-related problem. It's not an energy problem. It's a problem of being poor.

BUDGET REQUESTS FOR CRISIS INTERVENTION

Senator MATHIAS. I agree with that. Let me say—I want to be clear. I am not criticizing you. I understand your relationship with the President and your relationship with OMB and the constraints under which you appear here.

But I have to say this: When you talk about the Congress only appropriating $200 million, you know, that doesn't hold up very well when you look at the budget request for emergency crisis intervention for the next year, which is only $40 million.

Senator BURDICK. That is $40 million better than you got before.

Senator MATHIAS. But that is $160 million less than Congress felt was necessary this year. It isn't the Congress that was lagging on the situation.

Ms. OLIVAREZ. That is precisely because we now feel that program has to be institutionalized. If I have $40 million, then I can go bargain with the Department of Energy, with HEW, and with others for additional resources, as we have done in a lot of other

instances. I am in a better position than having no regular appropriation, but just a supplement.

So I think we did very well with the administration by convincing them we needed something institutionally in place.

Senator MATHIAS. I congratulate you that you brought them around, even if it was only to 20 percent of what Congress thought last year we should be spending. That is progress. Twenty percent progress is better than no progress.

I would like to put into the record at this point the several articles from the Maryland press, because it might be helpful to the administration as a way of understanding what is happening on the streets.

Ms. OLIVAREZ. Thank you.

[The information follows:]

STATE'S POOR FACE WINTER WITHOUT FUEL

(By Joyce Price, Staff Reporter)

State and city officials administering federally funded emergency fuel programs for the poor say they will not be able to make fuel available until the winter is nearly over.

Frank Wells, executive director of the state Office of Economic Opportunity which last year distributed $2.5 million throughout Maryland for emergency fuel programs, said his office has been barraged with requests for fuel.

But, he said, "No one knows when we'll be getting the federal money this year. One thing's for certain, though. It won't be any earlier than February."

Wells said that for the past few years, he and other administrators of state and local fuel programs have been pressuring the federal government to make the funding available between Nov. 1 and April 1.

"That's the time of need," Wells said, "but it just hasn't happened."

In both fiscal 1977 and 1978, Congress appropriated $200 million in the Community Service Administration budget for the nationwide Emergency Energy Assistance Program. That same amount is earmarked for fiscal 1979, which should mean the state once again will receive $2.5 million.

"But right now, we're just waiting," Wells said.

Of the $2.5 million state allotment $1 million went to Baltimore for an emergency fuel program administered by the Urban Services Agency.

Linwood Ivey, executive director of Urban Services Agency, said that last year his office knew by mid-September how much money was being provided. But so far this year he has heard nothing official.

"We have been bombarded by requests from people in the community who want and need fuel," Ivey said.

"But last year, the federal government gave us the money after the winter was over, and undoubtedly our fiscal 1979 fuel allotment will not arrive until it's almost spring."

Last year, Ivey said, the program served 4,670 low-income families out of the approximately 12,000 families that applied. More than half of those served in the program were elderly.

Those who qualified for the program (by meeting poverty income requirements) received up to $250 to pay fuel costs.

Ivey said that if he received the federal money today, he could "crank up the program overnight" using staffers from other programs.

"But we know that just won't happen and the people who call in asking for fuel, blame the delays on us," he said.

Jack Levin, of the city Department of Social Services, also has reservations about how much an emergency fuel program run by that agency will be able to accomplish this year.

Last year, he said, the program provided up to 100 gallons of fuel oil to more than 3,300 low-income families in Baltimore.

But Levin said that a $50,000 grant from the state Office on Aging was instrumental in reaching that many households.

"But last year the funding program was based on an emergency basis, and the Department of Social Services said it did not meet the energy needs of all senior citizens in the city," said Eugene Bartell, of the Baltimore Office on Aging.

"This year, we want to proceed with grants based on past record of need and we're awaiting clearance for that change in guidelines."

Bartell said he does not know when the change will come, but hopes it's soon, "because it's getting damned cold outside."

Levin said that last year the $50,000 fuel allotment became available in late January.

Demand for fuel could increase this year, he said, as a result of sky-rocketing heating oil costs and prospects for another bitter cold winter.

Levin called the Department of Social Services' emergency fuel program a "one-shot deal," in which applicants can receive no more than 100 gallons of heating oil. The program runs between November and March.

Under this program, a family's need for an emergency fuel allotment is determined by district offices of the Department of Social Services. The district offices refer names to the Emergency Services Center on Greenmount Avenue.

HAPHAZARD: THAT'S THE WORD FOR EMERGENCY FUEL FUNDS

Kalman R. Hettleman, director of the city's Department of Social Services, isn't surprised that the state's Office of Economic Opportunity doesn't know when federal funds will arrive to assist poverty-level families buy heating oil for the upcoming winter. It seems certain now that the funds, authorized by Congress and expected to amount to $1 million, won't be available until February, and perhaps not until spring.

Mr. Hettleman is not surprised because the situation is nothing new. "The funds usually are late," he says, "and they're always haphazardly planned and delivered. They come in dribs and drabs, and that makes it impossible for the various agencies involved to sit down to plan efficient ways to make sure that the people who need emergency fuel get it and get it on time."

Why the problem? Foot-dragging by Congress. And a complex, pipeline—congressional appropriation to the Community Service Administration and then to the Emergency Energy Assistance Program—and then to state offices of the Office of Economic Opportunity and finally, in Baltimore's case, to the Urban Services Agency.

Pressures have been applied by members of Congress and by the Community Service Administration, which is made up of local poverty agency directors. "But it doesn't do much good," says Linwood Ivey, who heads Urban Services here.

In the meantime, poor people, particularly elderly poor people, will have to wait—Urban Services can't commit money it doesn't have. Fortunately there are other sources—Mr. Hettleman's dribs and drabs—that can be used in dire emergencies. The emergency services office of Mr. Hettleman's department enabled 3,500 families to get 100 gallons of fuel oil each last winter; under the Aid to Families with Dependent Children aspect of welfare, many more people received $130 grants to buy fuel oil and pay gas and electric bills.

Agencies such as Mr. Hettleman's and Mr. Ivey's cooperate on various stratagems to find money and fuel in life and death situations. But this is not the way it should be done. The foot-dragging by the federal government, even after the government has acknowleged the need, hardly makes sense. If there's to be funds to buy fuel for poor people, why not make sure that those funds are handled efficiently—and at the right time?

COMMUNITY DEVELOPMENT CORPORATIONS

Senator BURDICK. Describe your present system for monitoring the performance of community development corporations. How do you measure your CDC performance against the goals specified for them in the authorizing legislation, like alleviating unemployment and community deterioration?

Ms. OLIVAREZ. We monitor them, which is something that hasn't been done in the past, through field visits and with a contract that we let out to a firm with that kind of background.

We normally measure the success of a community development corporation by the number of ventures, the amount of sales that those ventures are generating, the management capability of the

community development corporation, and the number of jobs that they have generated.

As of right now, the community development corporations have generated through their ventures and their activities 8,489 jobs that didn't exist before CDC went in.

They have created 479 staff jobs and then something in the neighborhood of 8,000 jobs that are indirectly related to the existence of the community development corporation.

Senator BURDICK. How much was staff?

Ms. OLIVAREZ. 479 staff jobs. 8,489 jobs that were created by the CDC through the launching of ventures. We have put the CDC's in the category of operational, transitional and probationary. The operational ones have been fairly successful, have more than one venture, have net sales of $3 million a year and are making a dent in generating additional funds into that community. The transitional ones are the ones that have management problems who are not able to either come up with the necessary staffing to make them as successful as the operational ones, and for those we offer technical assistance, training, all the support we can to make them operational.

Then we have a small group that just doesn't seem to be able to get off the ground and don't have the capability or the capacity to really run a community development corporation.

Those are given a certain amount of time to make the corrections and the necessary improvements and if they don't, then they are dropped from the list.

We have already, I guess you would say, eliminated five community development corporations simply because they weren't meeting the standards in the criteria of the act or of the management operation that we put in.

So we have some that are extremely successful. We have some that are successful but not to the degree that the large ones are, and then the next group, that is, the struggling ones.

Senator BURDICK. Would you run through quite briefly and describe the successful corporations, what they do?

Ms. OLIVAREZ. Let me give you the example of Harlem Commonwealth in New York. Harlem Commonwealth is into real estate management, improvement of housing and then owning the apartment buildings. They recently bought out the Washburn Wire Co. and, as a result of that, the Ford Motor Co. gave them a contract for $5 million to produce some of the springs that Ford Motor Co. uses in the production of automobiles.

For Ford Motor Co., it was easier for them to contract with this firm than to locate a plant in Harlem. That particular contract that they received from Ford immediately generated some 300 jobs in the Harlem area.

They have real estate, the management of buildings, apartments, Washburn Wire, and many others.

Senator BURDICK. Where do they get the startup money?

Ms. OLIVAREZ. From us. They used that to go after additional money.

Senator BURDICK. What are the conditions and limits?

Ms. OLIVAREZ. The conditions are that they must have some successful ventures. They have to have management skills, acquisition skills. They have to understand the corporate structure.

CDC PLANNING GRANTS

Senator BURDICK. You don't know that until after you get going.

Ms. OLIVAREZ. We give them at first a planning grant. Once we see they understand what they are doing, they are then required to come back with a venture package. In the meantime they must bring into their boards people with corporate skills. Once they submit a venture plan, it's put through a very tough analysis in our agency to make sure they have done the feasibility studies, that they have done the marketing studies and they know what they are doing.

They can then compete for venture capital from a pool of venture capital funds that we have in the agency.

Senator BURDICK. Is that a loan or a grant?

Ms. OLIVAREZ. A grant. But the condition is they have to go out and generate additional money to implement that venture. We then monitor them quite carefully to make sure that they are meeting all they said they would do in that venture plan.

As a result of that, many of the community development corporations are now getting substantial loans from the private sector——

Senator BURDICK. Five or six closed down, you said.

Ms. OLIVAREZ. We closed five that I can remember, because they weren't addressing the issues with a corporate mind.

Senator BURDICK. How many exist and are viable now?

Ms. OLIVAREZ. Approximately 40 existing and maybe 6 or 7 that we are not sure if they will make it.

Senator BURDICK. Are they generally located in metropolitan centers?

Ms. OLIVAREZ. We have very successful rural ones. One is in Kentucky, one in Tennessee, one in Mississippi, one in the State of Washington, one in New Mexico. We do both rural and urban.

COMMUNITY FOOD AND NUTRITION

Senator BURDICK. How much of the $30 million appropriated for the community food and nutrition program was used for feeding programs for the elderly? That is part one of my question.

Two, what percentage of community food and nutrition funding is going for direct services, as opposed to advocacies and access efforts?

Three, how much community food and nutrition program money in fiscal 1978 was used for funding Outreach activities for the food stamp program?

And last, what is the rationale for proposing to cut this food program back from $30 million to $8 million?

Mr. SMITH. Let me see if I can remember all those questions.

In terms of the self-help and crisis relief, self-help was a little over $3 million, and crisis relief, was approximately $1 million.

In terms of access to Federal food programs, there was approximately $13 million that was spent in that category. That was out of the almost $19 million we put out in the competitive process.

Additional amounts included training and technical assistance which added up to approximately $2.8 million.

With regard to your question as to what would happen to the program if it was reduced to $8 million. We anticipate that we would concentrate on statewide efforts. Obviously, with $8 million, we will not be able to support the 400 community food nutrition grantees now operating on the local level. We would look at it in terms of a comprehensive statewide approach to hunger and would work through the community action agencies and through other groups interested in those issues such as antihunger coalitions in trying to deal with it on a statewide level.

Senator BURDICK. How much community food and nutrition program money in fiscal 1978 was used for funding Outreach activities for the food stamp program?

Mr. SMITH. $13 million was the access category. You should add to that approximately $1.8 million in technical assistance grantees, such as Children's Foundation, Children's Rights, et cetera, that also worked on access and technical training assistance area so you have closer to about $16 million out of the $29 million.

FEEDING THE ELDERLY

Senator BURDICK. How was the community food and nutrition program used for feeding the elderly?

How was it administered? Tell me about it.

Mr. SMITH. On the local level, at the determination of the local community action agency. I saw a feeding program in California which utilized approximately $140,000 to administer a program which fed approximately 2,000 elderly people within the community.

They would use their funds to go around and obtain surplus food and other food quantities. They would package them in brown bags and then they had distribution points throughout the community whereby once a week elderly people would come and obtain the bags of foodstuffs.

It was anticipated—this is a rough guess—that an individual probably saved $10 to $15 a week on their food bill.

It was an exciting program.

COORDINATION WITH OTHER FEDERAL PROGRAMS

Senator BURDICK. How does this coordinate with the other programs?

Mr. SMITH. Our emphasis is to try to get people into those programs, to try to have people take advantage of the established Federal food programs. But there are certain situations when people fall through the gaps or specifically find themselves in crisis situations, and have to come to a place and be provided with some foodstuffs for a short period of time. At that point it would be our purpose to try to get them on the more established food programs.

Senator BURDICK. These are people reached where other programs might not reach them?

Mr. SMITH. Yes.

Ms. OLIVAREZ. Especially in the rural areas where we provide in addition to the feeding programs the transportation to bring the elderly in or deliver the meals to them. So it becomes a joint effort of the community action agency with our community——

Senator BURDICK. You don't double up with the hot lunch program?

Ms. OLIVAREZ. We can't afford it.

Mr. SMITH. The $30 million could not take care of the poor people in your State for a year in terms of actually supplying them with food. We have to utilize other food resources. We are less than half of 1 percent of the Federal moneys going into food programs.

Ms. OLIVAREZ. If you get a chance, you should look at the program in North Dakota, where they have been very innovative in establishing community gardens and with a very limited amount of money they bought six commercial pressure cookers that they then lend to any family who comes in because they want to can. When I was there they had this fair showing all the things they had done. People are able to come in and borrow the pressure cooker and are able to buy the jars and the lids at discount prices and stock enough food for the winter. They had a very small amount of money, but they used it very effectively.

SUMMER YOUTH RECREATION

Senator BURDICK. Apparently this is almost like your own programs. You try to reach those that aren't reached by something else.

You're asking zero funding for the summer youth recreation program for which Congress has provided $17 million last year. What did you request of OMB for the summer youth program? How would you utilize $17 million if Congress would again appropriate that amount?

Ms. OLIVAREZ. We requested zero from OMB given the fact that we are participating in the inflation fight. The fact is that this program is primarily a recreational program that only runs 3 months and serves a very limited number of people. It wasn't being run through our community action agencies. When we looked at the total area of need, we just felt we ought to target our limited resources in programs that would be more than 3 months in duration and had an emphasis on something that would make people self-sustaining. This was almost entirely a recreational program. It's a good program. I'm not knocking it. In some areas, particularly the small areas, low-income youth have no access to recreation of any type. But given the fact that we had to establish some priorities and target our money more effectively, we decided not to ask for money for that program.

NATIONAL YOUTH SPORTS PROGRAM

Senator BURDICK. The budget again requests zero funding for the youth sports program even though Congress in past years restored this program. What was your request for this program? Same argument?

Ms. OLIVAREZ. It was a very painful decision. I met with a group that administers the National College Athletic Association program around the country. They are impressive, but again it was more recreation, 3 months, limited number of young people. I would like to see that program perhaps if it was spun off to another agency, they might have an increase in their appropriations. They have been getting $6 million recently.

Senator BURDICK. How do you save $6 million that way?

Ms. OLIVAREZ. Other people have more money than we do.

Senator BURDICK. But it goes into the total appropriation.

Ms. OLIVAREZ. Those are painful decisions because they are good programs.

Senator BURDICK. Can you identify some of the youth programs for me?

Ms. OLIVAREZ. I am not sure there is one in your State. But what they do is link in with universities and colleges. Then they recruit young people. They put them through a program of sensitizing them to their rights and responsibilities as a citizen. They also do physical examinations. Sometimes they will help with dental work.

Senator BURDICK. They don't sponsor baseball teams or things like that?

Ms. OLIVAREZ. No.

STATE ECONOMIC OPPORTUNITY OFFICES

Senator BURDICK. What reaction have you had from Governors about your plan to increase State matching for State economic opportunity offices from 20 to 50 percent? If States insist on continuing to pay only $3 million which is currently 20 percent of the total $15 million program, would you reduce Federal funding down to $3 million to achieve 50–50 matching? Since your budget asks for $7.5 million, what would you do with the extra money if it turned out you only needed $3 million to match State funding? In other words, the question is what happens if the States don't match?

Ms. OLIVAREZ. Then they won't have a State economic opportunity office.

Senator BURDICK. What do you do with the extra money?

Ms. OLIVAREZ. Reward the ones functioning adequately who are meeting the match. I can give you an example of the State of Hawaii that year after year appropriates an adequate amount of money so they have a very effective State economic opportunity office. I said that in a very light manner. What we are doing now is evaluating each one of the State economic opportunity offices to determine just what the situation is. We are put in a bind because in States where the legislature only meets every 2 years they may not be in session at a time when they can make a decision whether or not to appropriate to that particular SEOO, so we are going to have to look at every one of those States on an individual basis and make sure that those who want to continue and have a commitment to match will be supported by us.

Mr. SMITH. Let me state we are looking at a variety of conditions which might allow a waiver of the 50–50 match and we are discussing those now with OMB. It's our intent, and it's the principle of

our budget to try and achieve that match, but, for instance, if certain conditions exist, there might be some leeway in allowing the State to continue a very valuable program even if they can't come up to that match. However, those criteria for waiver are yet to be determined.

Senator BURDICK. How have the State economic opportunity offices been operating? Quite successfully?

Ms. OLIVAREZ. Again, they vary. Some of them have been very successful. Some of them have had difficulty getting any kind of recognition from State government and as a result of that occupy a very mediocre position within State government. That wasn't the intent. They should be in a position where they can really help generate additional resources or sensitize people.

Senator BURDICK. Well, you have been very helpful today. I appreciate your testimony. I have a series of further questions, but the hour is late, and I will submit these to you for the record in due time and you can respond to them.

[The questions and answers follow:]

CRISIS INTERVENTION CRITERIA

Question: How do you respond to the charge that your criteria for aid under this year's Crisis Intervention program are more stringent than last year's program?

Answer: The emphasis this year is on assisting eligible near-poor households who are in an immediate crisis situation which is energy-related and which endangers their health and survival, and/or which results in substantially increased energy costs.

Question: For example, the income limit for the elderly was dropped from 150% of the poverty level to 125% this year. Won't this prevent many elderly, who qualified for aid last year from getting it this year?

Answer: The $200 million appropriations for this program does not approach the universe of need, even at the 125% of poverty guideline income level which has been associated with CSA's energy program since its inception. Our priority is therefore to attempt to reach the neediest first, that is, the lowest-income households.

Question: The new Crisis Intervention regulations permit payment of unpaid fuel bills, but require a "life - or health - threatening" crisis to permit reimbursing those who paid their fuel bills themselves. Doesn't this discriminate unfairly against the elderly who conscientiously pay their fuel bills, and reward those who let their bills go?

Answer: Payments under this year's program are limited to those eligible households who are in an immediate crisis. Elderly applicants who have paid a fuel bill at great hardship may receive other types of assistance, such as food or clothing, to alleviate that hardship. Moreover, prior year programs were initiated after the winter, when some adjustment was necessary after the fact. This year's program was initiated in January before the winter's bills could have been paid.

Question: How is a life - or health - threatening situation defined?

Answer: Any winter related energy condition which endangers the health and survival of eligible low-income households meets this criteria. The definition is intentionally broad, to allow local program operators flexibility in responding to first-hand situations.

Question: Is it solely up to local officials?

Answer: Local program operators are supported by their Project Advisory Committees in making this determination within the broad paramters of the regulation. There is also an appeals process by which applicants can request review of the denial of assistance under this program.

ENERGY CRISIS INTERVENTION

Question: What evidence, if any, do you have of past fraud and abuse in the Energy Crisis Intervention program?

Answer: In 1977 major audit questions were raised under the Michigan SCIP Program in relation to income eligibility of households assisted. The basic problem was lack of proof or certification of applicant's income eligibility. Documentation is still being sought to resolve the audit questions. In 1978 there were allegations of misuse of food and clothing vouchers in Nassau County, New York, but CSA investigators found no evidence of fraud or abuse. An audit of all programs administered by the Nassau county organization is now being arranged by CSA.

Question: What steps are you taking to guard against fraud and abuse in the program this year -- Do you have spot checks by Regional Office officials as local agencies?

Answer: Spot checks by Regional Office Personnel are encouraged as part of their normal project monitoring responsibility. In addition to regular audits of grantee performance, CSA has also contracted with the Urban Institute for an evaluation of the SCIP and EEAP programs and GAO has undertaken to monitor the current program at the field level in certain areas.

Question: Do you plan to audit Energy Crisis Intervention expenditures?

Answer: All CSA grantees and delegates of grantees are required to include an examination of crisis intervention expenditures as part of their regular annual audit.

CRISIS INTERVENTION ALLOCATIONS

Question: What are the criteria for a region to be designated a disaster area by the Governor?

Answer: To qualify for funds under the energy related disaster relief program, the Governor must request the President to declare the affected area a national disaster. A copy of that request may be used by the CSA Regional Director as a basis for a request for aid from CSA, supported by needed justification, agencies recommended to receive the funds and the views of the State. The Director of CSA after consulting the Federal Disaster Assistance Administration, then makes a determination and CSA immediately informs by telegram the Governor and the appropriate CSA Regional Office.

Question: Under your new funding mechanism, how long does it take to get aid to recipients in a designated disaster area?

Answer: We acknowledge the request upon receipt and inform the Governor that a determination is favorable. An allotment is sent immediately to the Regional Office. To reduce delays in getting funds to affected people, the CSA Regional Directors may authorize existing grantees to transfer funds from other program accounts which are reimbursed when disaster relief grant funds are actually received.

1980 ENERGY CRISIS INTERVENTION REQUEST

Question: The 1980 budget request for Energy Crisis Intervention is $40 million--only one-fifth of the current $200 million appropriation. How would this limited amount be allocated?

Answer: The funds would be allotted to Regions on a formula basis, reflecting such factors as heating degree days, relative number of near-poor households and near-poor individuals aged 60 and over.

Question: In what ways would you tighten eligibility criteria for assistance--in other words, who would get cut out that is eligible for assistance this year?

Answer: We would probably not tighten eligibility criteria since this program would be treated as an expansion of the regular year-round crisis intervention activities we have funded since the inception of CSA's energy program. Local project advisory committees would set eligibility priorities within the framework of broad policy guidelines.

COMMUNITY ACTION AGENCIES FUNDING INCREASE

Question: How much of the $12 million increase being requested for Community Action Agencies will go to strengthen existing grantees, and how much will go to new grantees to cover currently-unserved areas?

Answer: Approximately $3.0 million of the $12.0 million increase will be targeted for unserved areas; the remaining $9.0 million will be utilized to strengthen existing CAAs, especially smaller CAA's, for program planning and management activities.

Question: What criteria would you use to allocate an additional $12 million for "smaller" Community Action Agencies?

Answer: CSA will assess the current management capabilities of smaller CAAs in the areas of program planning, implementation and accountability to determine which ones will benefit most from additional funding. The goal is to fund a basic staff in the above management functions for rural CAA's; CSA will concentrate on this criteria and reward high performance CAAs where no other services are being provided by other local agencies.

Question: Would any of the funds to "Program Agents," which are similar to small Community Action Agencies?

Answer: No.

CSA NEW OFFICES

Question: Where did you get the staff and money to create two new offices which did not appear as part of your budget request last year?

Answer: Staffing was provided last year by reassigning personnel already on CSA roles and consequently not creating additional demands on the 1978 budget.

Question: Specifically, how much is allocated to each of these offices?

Answer: The 1979 budget includes the following estimates for salaries, benefits and other administrative costs of the two offices: Office of Policy, Planning and Evaluation $400,000; Office of Interagency and External Affairs $300,000.

Question: Provide a list of job titles and salary levels for each of the two new offices you created last October.

Answer: The planned manning table shown below has not yet been achieved, and won't be until offsetting reductions elsewhere occur:

Office of Policy, Planning and Evaluation

	Position Title	Grade	Entrance Salary per year
1.	Assistant Director	Executive Level IV	$47,500
2.	Staff Assistant	GS-11	19,263
3.	Confidential Secretary	GS-7	13,014
4.	Supervisory Social Science Analyst	GS-15	38,160
5.	Social Science Analyst	GS-14	32,442
6.	Social Science Analyst	GS-14	32,442
7.	Social Science Analyst	GS-13	27,453
8.	Secretary	GS-6	11,712
9.	Supervisor Social Science Analyst	GS-15	38,160
10.	Social Science Analyst	GS-14	32,442
11.	Social Science Analyst	GS-14	32,442
12.	Social Science Analyst	GS-14	32,442
13.	Secretary	GS-6	11,712

Office of Interagency and External Affairs

	Position Title	Grade	Entrance Salary per year
1.	Associate Director	GS-15	$38,160
2.	Deputy Associate Director	GS-14	32,442
3.	Special Assistant	GS-12	23,087
4.	Secretary	GS-7	13,014
5.	Intergovernmental Prog. Spec.	GS-13	27,453
6.	Intergovernmental Prog. Spec.	GS-13	27,453
7.	Intergovernmental Prog. Spec.	GS-13	27,453
8.	Intergovernmental Prog. Spec.	GS-13	27,453
9.	Intergovernmental Prog. Spec.	GS-13	27,453
10.	Intergovernmental Prog. Spec.	GS-13	27,453
11.	Clerk-Typist	GS-4	9,391

QUESTIONABLE COSTS

Question: How many dollars of unresolved questioned costs do you have presently?

Answer: As of January 31, 1979, CSA had $50.2 million in unresolved questioned costs.

Question: How many dollars of questioned costs have you had in each of the last three years?

Answer:	FY 1976	$23,362,350
	FY 1977	20,427,366
	FY 1978	34,654,729
		$78,444,445

Question: How many of these questioned costs have you resolved? Please indicate your manner of resolution.

Answer: Of the total $78.4 million in questioned costs, $43.5 million had been resolved by January 31, 1979. Of this amount, $24 million was allowed because grantees with these questioned costs provided adequate justification that the costs were a reasonable charge to the grant. The remaining $19.5 million was not allowed but was resolved through various methods. The most common method of resolution, primarily because the majority of CSA grantees are private, non-profit organizations without ready sources of cash, is for grantees to utilize Section 243(c) of the Economic Opportunity Act of 1964, as amended. This section allows recovery by increasing the required non-Federal share in the agency's or organization's grant for the following year. In regard to those questions of costs which still are unresolved, $34.9 million was questioned during the last three years and $15.3 million was questioned prior to 1976. Of this amount $520,000 involves 275 audit reports with questioned costs totalling less than $5,000. Of these reports, 208 or 76 percent were issued for fiscal 1977 or earlier.

Question: What are you doing to assure that the officials designating a Community Action Agency are held ultimately accountable for the use of CSA funds?

Answer: Under the existing system at CSA, annual audits are required of every CSA grantee. The grantee is required, within 30 days after receipt of the audit report, to respond to the regional office as to what corrective action has been or will be taken. The regional office then is responsible for determining the acceptability of the corrective action. If the regional office disallows any questioned costs, the grantee has 30 days from the date of the disallowance to appeal the decision. The External Audit Division assists the regional offices by providing monthly reports which show:

1) all audits that have not been resolved within 60 days from the date the report was issued;

2) all grantees who have not obtained an audit within 6 months after the end of their program year;

3) the amounts of costs questioned by the auditors, allowed or disallowed by the program offices and the costs that remain unresolved; and

4) the number of grantees that have an inadequate accounting system that is unresolved at the report date.

Under this system, CSA has succeeded in resolving a large portion of grantee's unresolved questioned costs. For example, from the beginning of fiscal 1978 through the first four months of fiscal 1979, CSA closed more than 600 audits involving $26.2 million in questioned costs. At the beginning of fiscal 1979, however, CSA decided that

progress was needed. Therefore, a strong directive was sent to all regional directors in a continuing effort to reduce the number of open audits and the amount of questioned costs, as well as to provide long-term improvement in this Agency's system for resolution of audits. Within the four months since this directive was sent, this added emphasis has produced noticeable results. The monthly dollar volume of resolved costs has increased from $1.4 million to $2.7 million. During January, the Agency resolved more than 300 overdue audits involving $5 million in questioned costs -- the largest number of audits and the highest amount of questioned costs ever reported resolved in one month by CSA.

COMMUNITY FOOD AND NUTRITION

Question: How much of the $30 million appropriated for Community Food and Nutrition was allocated to Community Action Agencies? What was the balance used for?

Answer: Local initiative grantees, including limited purpose agencies and some State Economic Opportunity Offices, received $16.2 million of the $29.0 million obligated in 1978. Migrant and Indian grantees received most of the balance, with $1.8 million obligated to national technical assistance grantees. We would expect similar proportions to be obligated of the $30.0 million available in 1979.

FOOD AND NUTRITION PROGRAM FORWARD FUNDING

Question: What are the advantages and disadvantages of "forward funding" the Community Food and Nutrition Program?

Answer: "Forward funding" of the Community Food and Nutrition Program refers to the Agency's long-standing practice of obligating the appropriation for a given fiscal year late in the fiscal year. It arose due to a series of continuing resolutions in the early seventies. Since the projects are non-continuing in nature and the appropriation has always been in disagreement between the House and Senate, it was felt that funding could not occur until the total size of the program was known. When that occurred the grants were obligated for twelve months. In 1978, for example, the grants were largely obligated in the last month of fiscal 1978 (September, 1978) effective October 1, 1978 to run twelve months through September 30, 1979. There are no advantages or disadvantages, per se, in funding a program in the first or last month of the year as long as the practice remains consistent.

Question: For what "program year" will the $30 million fiscal year 1979 CFNP appropriation be utilized?

Answer: It is anticipated that the 1979 appropriation will be obligated in August or September 1979 effective October 1, 1979 for twelve months through September 30, 1980.

Question: How much of a fiscal 1980 appropriation would be needed to continue the $30 million CFNP program level through September 30, 1980?

Answer: None. However, if it were anticipated that the program would be continued from fiscal 1981 funds, those funds would

have to be available October 1, 1980, the first day of the fiscal year. Even if that were to occur, normal processing time would mean a minimum of forty-five days before grantees received 1981 funds.

COORDINATION OF MIGRANT PROGRAMS

Question: How are you coordinating CSA's Program for Migrant Farmworkers with those of other Federal Agencies, as the Department of Labor (Farmworker Programs), the Department of Agriculture (Food Stams, the WIC Program), the Department of Health, Education and Welfare (Headstart, Education, and Health Programs for Migrant children, and others?

Answer: Community Services Administration has coordinated the following programs with other Federal agencies:

WIC - USDA has had a demonstration program which attempted to in-increase access to migrant women and children in the WIC program.

HEW's Office of Telecommunication has funded a social service demonstration project in California that CSA is also funding. This program is an attempt to end the isolation of Migrant and Seasonal Farmworkers in rural areas.

Question: How effective are these coordinated efforts? What types of projects, if any, have been planned between Federal Agencies to help Migrants -- comparable, for instance, to the Interagency Agreement made by your Agency and the Labor Department to provide employment for low-income, marginally employable individuals?

Answer: CSA is currently planning a strategy to impact on the three poorest counties in the U.S. These counties in the lower Rio Grande Valley in Texas has approximately 30% of the farmworker population of Texas. EDA, FmHA, EPA, HEW and DOL will be asked to assist CSA in this effort. Efforts will concentrate on community development and job development.

COMMUNITY SERVICES ADMINISTRATION (CSA)

Question: During the Appropriations Hearings last year, the Committee was informed a Migrant and Seasonal Farmworker Desk was being established with the Office of Community Action in order to more effectively function as an advocate for these people. What is the status of the "Desk" and how many people are working on Migrant and Seasonal Farmworker issues, both in the National Office and within the Regions?

Answer: At the present time, there are two people working with Migrant and Seasonal Farmworkers issues and programs at the National level. Within the next month or so, two new positions will be filled within the Office of Program Development. In accordance with our legislation, programs are nationally administered but coordination with Regional Offices occurs in relevant program areas.

COMMUNITY DEVELOPMENT CREDIT UNIONS

Question: How many Community Development Credit Unions have received federal funding in the past, either through the Community Services Administration or other Federal agencies?

Answer: At the present time there are approximately 250 credit unions, many of them using the term community development credit union to describe themselves.

Question: Why is a separate appropriation needed, rather than allowing local Community Action Agencies to determine if part of their resources should be utilized for Community Development Credit Unions?

Answer: Based on experience of the past 15 years both CSA and the National Credit Union Administration feel strongly that to achieve financial stability and solvency and to insure savings and credit services are delivered to the intended beneficiaries through this mechanism a resolving loan fund is needed for capital. These funds are not to be used to pay for the operating expenses of the credit union.

Question: How much of the $12 million being requested would go for administrative costs?

Answer: None. The $12,000,000 will be a revolving capital seed fund. The management of the program will be absorbed by both agencies as part of its normal program administration.

Question: Specifically, what would be the duties of the National Credit Union Administration in administering this program?

Answer: The CDCU program is seen as a partnership between two Federal agencies, each assuming functions for which it is best suited for. NCUA as the lead agency for credit unions will offer training and technical assistance in chartering, monitoring for stability and solvency, and compliance with regulations.

COMMUNITY DEVELOPMENT TRANSFER

Question: What is the status of the Administration's plans to transfer the Community Development Program out of the Community Services Administration?

Answer: Several reorganization studies are underway within the Office of Management and Budget, one of which would transfer the Office of Economic Development out of CSA. However, the President has made no decisions to date.

UNSPENT COMMUNITY DEVELOPMENT FUNDS

Question: How much of the $46,200,000 fiscal year 1979 appropriation for Community Economic Development has been obligated so far?

Answer: As of February 1, 1979, approximately $4,000,000 has been obligated. The majority of our fundings occur during the third

and fourth quarter of the fiscal year.

Question: Do you need amended Appropriations bill language for fiscal year 1979 to prevent any of these funds reverting to the Treasury?

Answer: CSA/OED does not anticipate any problem of obligating its fical year 1979 appropriation.

Question: Explain why you need "Extended Availability" bill language for the Community Economic Development Program in fiscal 1980.

Answer: With the extended availability language, it affords CSA/OED the necessary flexibility to plan for the equitable allocation of resources among grantees. Venture capital is now awarded CDC's in the form of supplemental grants from a Competitive Investment Capital Fund based on the approval of individual business proposals. Such proposals are not developed and submitted on a fiscal year schedule but on the basis of each CDC's individual needs and developmental process. If venture capital must be obligated in the fiscal year for which appropriated, CDC's whose business proposals are submitted first tend to be at an advantage. Extended availability language would give OED the flexibility in withholding certain funding decisions until CDC proposals submitted near the end of, or just after, the fiscal year have had an opportunity to be considered.

COMMUNITY DEVELOPMENT CORPORATIONS VENTURE FUNDS

Question: Please describe how your new Competitive Investment Capital Fund works.

Answer: CSA/OED was criticized by the Government Operations Committee and OMB because CDCs had been forward funded investment capital long before the venture was finalized and the money needed. The Office of Economic Development has placed all the Investment Capital into a pool. As a CDC completes a feasibility study, it submits it to OED. If OED approves the investment, the money comes from the Competitive Investment Pool. The Pool is competitive in the sense that a CDC must perform - complete a feasibility study and receive approval - to receive investment capital.

Question: What criteria do you use to judge Community Development Corporations competing for these limited venture funds?

Answer: Each venture is judged on its own merits: feasibility, benefit to special impact area residents, conformance with the CDC's Overall Economic Development Plan, etc. The benefits from the Competitive Investment Pool are many: CSA/OED has better control and accountability for the funds; money is not "tied up" in a letter of credit with a CDC that may not need it for a year or two; it allows CDCs to invest in projects of larger scale than previously; and it encourages CDCs to work harder and faster to receive investment capital.

Question: How much of the request for Economic Development would you allocate to venture funds in fiscal 1980?

Answer: In fiscal 1980, approximately $20 million is planned for investment capital.

COMMUNITY DEVELOPMENT CORPORATIONS

Question: Describe the criteria used to classify the Community Development Corporations into the four performance categories you use for funding decisions.

Answer: The Office of Economic Development re-classified CDC's into four categires according to their current level of development and history of performance. The four categories are defined as follows:

The planning category includes those CDC's that operate as OED planning grants or those that have just completed their initial planning phase. Such organizations receive administrative funding support from the OED for start-up purposes and, as such, do not yet have a record of performance on which to be judged.

The probationary category includes those CDC's with so poor a performance record as to warrant discontinuation of financial support unless dramatic improvements are accomplished during a designated time frame within their present funding period. Performance indicators which are examined as part of this classification include compliance with CSA/OED rules and regulations, adequacy of management and fiscal controls, ability to initiate new program activity and the profitability and impact of their present activities.

The transitional category includes CDCs which have had significant management, developmental or venture problems which in OED's judgement can be resolved through improved planning, staffing, or technical assistance, and CDCs that still are too young to have a performance record.

The operational category includes those CDCs that have demonstrated a capacity to effectively and efficiently utilize the capital resources available to them; leverage resources from other public and private sources; establish sound management practices; develop a stable diversified portfolio; and provide needed goals, services, and other benefits to community residents.

OED will be establishing a fifth, or institutional category of CDC's which have met the criteria for the operational category and which can begin to achieve a scheduled reduction of program funds and support. These CDC's will continue to receive venture capital from OED as well as financial support for developmental program costs, but will eventually finance their core overhead costs from venture profits or non-OED sources.

Planning, probationary, and transitional CDC's will be closely monitored by the OED and will be provided with intensive levels of technical assistance (both directly from the OED and from outside sources arranged by the OED). Particularly for the planning grantees, the OED has appointed specific roles to a technical assistance support organization to ensure consistency in their development efforts. Under this contract, the planning grantees have access to assistance in business, organization, and system development throughout the

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planning period from a single source with a record of performance in these areas. The operational and institutional CDC's, on the other hand, will not require such close monitoring and will require more specialized assistance. Also, only operational and institutional CDC's will continue to be funded for a two year period. Planning grantees and transitional CDC's will be funded for no more than one year and will receive only administrative funds at time of funding. Transitional CDCs can compete for venture capital on a case-by-case basis. Probationary CDC's will normally not be granted additional funds or will receive the minimum financial support needed to sustain the CDC during the probationary period.

Question: How often do you review these classifications?

Answer: On a yearly basis.

Question: When a program reaches the "operational" stage how long does Federal support continue?

Answer: As operational CDC's become larger and more successful, the percentage of CSA funds to total funds decreases. Increasingly, operational CDC's are able to use CSA funds to leverage substantial amounts of private capital or other Federal funds. Examples are the Harlem Commonwealth Council's investment in the Washburn Wire Company, an $8 million package, involving CSA, ($2.1 million) other Federal ($3 million) and bank financing ($3 million) which prevented some 125 jobs from being lost to that community. Five thousand miles away in rural Alaska, a major acquisition involved a total package of $6 million to purchase a grocery store chain serving the State's far-flung and isolated villages. In all such cases the availability of sizeable blocs of CSA venture capital are the crucial ingredient in leveraging other resources. There is no clearly defined time for a CDC to remain "operational"; that will depend on the community and circumstances involved. However, even when an operational CDC becomes "institutional" and begins to move toward administrative self-sufficiency it will continue to need CSA support for venture capital and certain developmental costs.

Question: Have any of the CDC's graduated from the program yet?

Answer: No. A small number of CDC's are now approaching the "institutional" stage. Within the next 3-4 years such CDC's will reach a point, described earlier, where continued CSA support for central overhead costs will no longer be needed.

COMMUNITY DEVELOPMENT CORPORATIONS TECHINCAL ASSISTANCE

Question: What are you doing to provide training and technical assistance to Community Development Corporations?

Answer: During the present year we have awarded a series of contracts to provide management assistance to our grantees in several areas. Included in these awards were contracts to provide for; 1) Institutional Development; 2) Business & Commercial Development; 3) Industrial Development and 4) Employment & Manpower Services. In addition to these contracts, grants for supportive programs and

activities have been awarded that provide for board and staff training, research and legal assistance.

Question: Why have you cut back over two-thirds on your request for technical assistance funds in 1980?

Answer: Inflationary pressures and the high demand for investment capital have necessitated a reduction of other activities to better allow dollars to be directed to CDC's. If individual CDC's decide to spend those additional dollars for technical assistance, it can be included in their work program.

LEGAL ACTIONS AGAINST COMMUNITY DEVELOPMENT CORPORATIONS

Question: To what extent have private businesses brought legal actions against Community Development Corporations for unfair competition? And if so, with what results?

Answer: A group of small tortilla manufacturers in Phoenix, Arizona brought a lawsuit against Chicanos Por La Causa to stop the operations of Interspice, Inc., a multi-product Mexican Food manufacturer started by the CDC. Interpreting Section 713(a)(10) of the Economic Opportunity Act of 1964, as amended, as prohibiting Title VII ventures from causing any displacement of workers, the court ordered CSA to conduct an impact study which showed that the plaintiffs' share of the market which Intersprice is planning to enter is about 15%, while national food conglomerates hold about 50% or that market. In effect, Interspice's main competition will be multi-billion dollar firms. The case is expected to go to trial. In 1976-77, corrugated container corporations sued CSA and the Southwest Virginia Community Development Fund, a CDC in Roanoke, charging unfair competition and displacement of labor resulting from use of Title VII investment monies to start-up the American Packaging Corporation. The issue of competition and displacement was never clearly resolved. The case was decided in favor of plaintiff on a narrow, peripheral issue. The ruling prohibited any additional investment of CSA funds in the venture. APC initially suffered from management problems resulting in less than profitable operations. The CDC subsequently sold at fair market value, with OED approval, 80% of the APC stock to Dixie Container, a private corporation.

Question: Has this had any effect on your economic development program policies?

Answer: OED's program policies have always required a review of the competition issue in analyzing CDC business proposals. However, these legal actions have prompted OED to place an even greater emphasis on market analysis, focusing on the question of competition in the review of business proposals. OED recently turned down a very attractive business proposal by a rural CDC, in a rapidly growing market, because OED could not guarantee that the entry of the CDC into this competitve field would not cause any displacement of workers among the weaker competitors.

SUCCESSFUL COMMUNITY DEVELOPMENT CORPORATION VENTURES

Question: How successful have Community Development Corporations been in investing in profitable business ventures?

Answer: There are three major program activities that the CDC's are involved in - Physical Development, Community Development and Business Development. Ventures receiving investment capital from the Office of Economic Development are equally divided among these 3 categories. Investment in Physical and Community (social) Development are not seen as profit oriented. As a matter of fact, secondary community development funds are known to have no possible profit base. The purely business development investment activities over the past two years indicate an increasing profitability track record. Examples would include the portfolios of Harlem Commonwealth Council of New York; Kentucky Highland Investment Corporation, Kentucky; Delta Foundation, Mississippi; the East Los Angeles Community Union, Los Angeles; and Community Enterprise Development Corporation of Alaska.

Question: How serious is the absence of qualified venture managers in establishing a successful CDC?

Answer: In the implementation of any program and particularly one with a community focus the need for management skills and leadership is of prime concern and consideration.

Question: What role does CSA play in the selection and training of qualified venture managers?

Answer: The CSA plays virtually no role in the selection and training of venture managers. However, some venture dollars are identified to be used for manager training and selection.

NATIONAL CENTER FOR APPROPRIATE TECHNOLOGY

Question: How much money has CSA awarded the National Center for Appropriate Technology in fiscal 1979?

Answer: $1.8 million. This was a continuation of the $1.5 million 1978 grant to provide a total of $3.3 million for the program year ending June 30, 1979.

Question: How much money, in total, has the Center received from CSA, and from what programs did the funds come?

Answer: Beginning with the first CSA grant to the Center in September, 1976, a total of $6,389,546, has been awarded to the Center to date. These funds have been from CSA's Emergency Energy Conservation Services Program under Section 222(a)(5) (formerly 222(a)(12) of the Economic Opportunity Act as amended.

Question: What has the center (NCAT) accomplished with these funds?

Answer: The National Center for Appropriate Technology was organized to make the benefits of appropriate technology available to low-income communities and individuals in the United States. Founded in 1976, with an initial grant from the Community Services Administration, NCAT is involved in the following activities:

(1) Making small grants available, primarily to low-income communi-

ties and organizations for appropriate technology field demonstration projects in energy, agriculture, housing, resource recycling, community development and related areas

2) Designing an information system that gives prospective users of appropriate technology ready access to appropriate technology developers, information and other resources

3) Conducting technical research and evaluation in a variety of areas including heat source efficiency, insulation manufacture, low energy cooling, solar hot water heating and weatherization of mobile homes

4) Maintaining an aggressive appropriate techology outreach program, both at the national and regional level, through conferences, newsletters, specialized publications, resource mobilization and field extension workers

The following projects represent the major thrusts of NCAT's initiatives in the area of "appropriate technology" and the needs of the poor:

The Solar Utilization Economic and Development Program (SUEDE) was created to facilitate the implementation of solar technologies for direct application to meet the needs of the low income. The program is co-sponsored by the Department of Labor, Energy and CSA. NCAT has been requested to assist the SUEDE participants. Accordingly, NCAT is hosting, in March 1979, a meeting at their Butte, Montana headquarters for all SUEDE technical directors from each community agency. The NCAT technical staff will elicit the technical problems that each of the participants are experiencing and then provide the three sponsoring agencies a detailed account of these problems and the needed measures to alleviate them. NCAT is willing to provide the necessary technical assistance needed if the sponsoring agencies approve the work plan and develop a funding arrangement.

Crystal City, Texas was thrust into the front pages of the national media because the low income community was shut off by their utility due to their inability to pay their utility bills. NCAT has been requested by an inter-agency task force to assess the needs of Crystal City. After negotiating with several government agencies, all have approved NCAT's involvement in this energy assessment. Contingent upon the approval of the Texas governor's office, NCAT will begin its assessment of the Crystal City problem and provide options for energy self-sufficiency. Such recommendations will determine the need for new energy crops, available methane now flared from Crystal City's garbage treatment center, and/or the use of natural gas which is underneath the city and has been assumed as currently unexploitable.

The Center (NCAT) is currently providing assistance to ACT 79, a project funded by DOE, ACTION, SBA and NCAT to set up a mock appropriate technology city on the mall in Washington, D.C. April 27-30, 1979. The community will have exhibits of all the diverse appropriate technologies in addition to over 200 workshops and lectures.

NCAT has also served as the major source of appropriate techology information for policymakers throughout the nation. Three examples of NCAT's involvement include the submission to the House Subcommittee on Domestic and International Scientific Planning, Analysis and

Cooperation of our survey on all major appropriate technology projects across the nation. NCAT submitted to Mr. Scheuer, chairman of the subcommittee, over 100 pages of detailed information in this regard. In addition, NCAT served on the D.C. Energy Initiative which was a group of energy oriented organizations set up to advise the new mayor of the city's energy policy. NCAT participated on the Domestic Policy Review on Solar Energy. NCAT's representative was instrumental in trying to focus the DPR on issues affecting the poor.

NCAT also administers a small grants program of its own which is far more diverse than DOE. NCAT has appropriated a total of $1,067,585 for over 150 projects around the country. This money was provided to a wide variety of technologies particularly directed toward low income communities. The following breaks down the distribution of these funds:

26% Agriculture, food and nutrition
18% Low income housing
14% Training and technical assistance programs for the low income
26% Energy conservation (solar and weatherization)
16% Special studies and research (waste, recycling, appropriate technology, greenhouses, etc.)

In addition to the small grants program, NCAT itself has received over 2,000 requests for assistance averaging 70 per month. The grantee published twelve bibliographies, 116 research papers and one policy treatise. In addition, NCAT has sponsored ten regional conferferences, four technical workshops, and one National Energy conference.

Question: Do you intend to award the Center funds in fiscal 1980?

Answer: CSA believes, as does the NCAT Board of Directors, that the funding base of NCAT should be broadened, and we will continue to work with NCAT to develop other funding sources for the Center. The level of funding in fiscal year 1980 will be determined by CSA's appropriation levels and the grantee's success in finding other sources of funds.

UNFUNDED COMMUNITY ACTION AGENCIES

Question: The Economic Opportunity Act of 1964 establishes a number of criteria which the Community Services Administration must use in determining whether a community action agency may be recognized. For example, a community action agency must have the capability of planning, conducting, administering, and evaluating a community action program. Other criteria must be satisfied prior to providing financial assistance to community action agencies.

Last year, Congress amended the Economic Opportunity Act of 1964 to eliminate an artificial population barrier which had been used to deny recognition of community action agencies in impoverished rural areas. Reports have been received that the Community Services Administration is now denying recognition to community action agencies in impoverished rural areas because of insufficient Federal local initiative funds.

Does the Economic Opportunity Act require a minimum level of funding for community action agencies recognized by the Community

Services Administration.

Answer: No, the Economic Opportunity Act does not require a minimum level of funding for Community Action Agencies recognized by the Community Services Administration. The Act does, however, require the following minimum eligibility factors.

1) A Community Action Program which "includes or is designed to include a sufficient number of projects or components to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem";

2) The strengthening of community capabilities for planning and coordinating anti-poverty assistance so it is more responsive to local needs;

3) Better organization of services related to the needs of the poor;

4) Greater use of new types of services and innovative approaches in attacking the causes of poverty;

5) Maximum feasible participation of the poor in the development and implementation of programs;

6) Broadening the resource base of anti-poverty programs by obtaining a more active role by business, labor and professional groups which can influence the quantity and quality of services for the poor.

According to Section 212(b)(1), a community action agency is an organization which shall have the authority and responsibility to:

1) Plan and evaluate programs. At a minimum this includes:

   a) Development of in-depth information regarding the problems and causes of poverty in the community

   b) Do a thorough analysis of the quantity and quality of the assistance currently being provided to deal with those problems

   c) Establish priorities for best use of resources

2) Encourage other anti-poverty agencies to secure assistance on a common or cooperative basis; foster efforts at coordination which will close service gaps and achieve better focusing of resources.

3) Initiate and sponsor projects relating to unmet needs

4) Establish effective policies and procedures which enable the poor to influence the character of the programs; and provide tehnical assistance to the poor to enable neighborhood groups to secure resources on their own behalf.

5) Join with and encourage business and labor and private organizations to actively support the community action program efforts through employment and investment in poverty areas.

Question: How much would the President's budget for local

initiative funds have to be increased to fund community action agencies which have been denied recognition based on insufficient Federal funds?

Answer: The combination of CSA grant funds and other resources used in funding community action programs does not permit exact projections of amounts of additional funds needed.

Community action agency programs are supported from combined federal and local resources. The scale on which a particular program is carried out is determined by the level of locally provided resources as well as the community action agency's ability to obtain funding from a variety of other federal and state sources. In addition, the minimum requirements for conducting a community action program would generally be provided from multiple sources in varying proportions.

CSA has requested an additional $12 million in local initiative funds for fiscal year 1980 for the purpose of strengthening the administrative capability of existing programs, developing promising initiatives of existing programs and reducing the number of unserved areas. While reducing the number of unserved areas is a priority of the agency, the agency does not believe that this goal should be sought at the expense of weakening current successful operations.

Ouestion: Is it now the policy of Community Services Administration to deny recognition to otherwise qualified community action agencies based solely on the lack of local initiative funds?

Answer: As indicated previously, the Economic Opportunity Act mandates a range of capabilities required of community action agencies. To the extent that an applicant's ability to meet the requirements of community action agencies is dependent on infusions of local initiative grant assistance from CSA, the agency's eligiblity is affected by availability of such funds. If an applicant to serve as a community action agency could not meet eligibility requirements without financial assistance from CSA beyond what was available, CSA would conclude that the agency was not a qualified applicant because of inability to carry out required functions.

STATE ECONOMIC OPPORTUNITY OFFICES

Question: Provide a table for the record detailing all sources of State Economic Opportunity Offices's funding, both Federal and state--comparing fiscal 1978 actual, 1979 estimated, and 1980 budgeted.

Answer: Funding to SEOO's from other sources is not reported and therefore unavailable. However, SEOO's are required to provide 20% of the total SEOO program in non-Federal share, which would be a minumum of $3 million. Total SEOO funding from CSA for all States in 1978 amounted to $11,797,755.

Question: What information do you have on state plans to discontinue operation of State Economic Opportunity Offices if Federal funding is reduced?

Answer: No plans have been received by CSA, at this time, from states in regards to reduced Federal funding in fiscal year 1980.

1979 funding of SEOO's continues at the 1978 levels per the terms of the continuing resolution under which CSA is operating this fiscal year.

Question: How much, in total, are states now contributing to the SEOO program? How many states are already providing 50% or more of the actual cost of operating SEOOs?

Answer: As mentioned in the earlier SEOO question, funding to SEOO's from other sources is not reported and therefore unavailable.

IMPROVING MANAGEMENT

Question: Describe the specific actions you have taken to improve management of the Community Services Administration?

Answer: The following is a list of areas where specified action has been taken to improve management of the agency;

- Began development of a grantee information system to provide planning, operational, monitoring and evaluation information concerning CSA programs and grantee progress and performance.

- Initiated work on design of grantee program management system to strengthen CSA management capabilities and provide simpler and more effective system for grantees.

- Began overhaul of directives system designed to update, simplify and consolidate grantee-related issuances.

- Proceeded with automation of financial reporting system for Community Development Corporations to facilitate improved analysis and evaluation of these grantees.

- Initiated systems studies and reviews to improve overall CSA financial management systems and operations.

- Began a project to review and strengthen cash management practices of grantees and assure compliance with revised standards.

- Broadened training programs for CSA employees.

Question: What specific improvements in program operations have resulted from management improvements?

Answer: Based on the projects described above, specific management improvements have been or are being accomplished which include:

- Expanding training and technical assistance for:

  a) community action agency board members, executive directors and appropriate staff

  b) grantees in property management, personnel management and accounting systems

  c) auditors engaged in the grantee audit process

- Strengthening audit procedures to assure grantee compliance with public laws and agency regulations. CSA has begun a program to:

  a) Partially suspend funding when a grantee is deemed in non-compliance with laws or regulations

  b) Deny refunding when an unacceptable audit report is received

  c) Assure access to all bank accounts, CSA and private, where disputed use of CSA funds are involved

  d) Pursue civil suits to recover illegally received or misused funds rather than to simply disallow such expenditures

Question: What further improvements do you expect to accomplish with the $11 million increase being requested in technical assistance, evaluation, and demonstration funding?

Answer: Of the $11 million, the demonstration area would receive $9 million. While a portion of this would continue demonstration efforts in energy, the principal use for new funds would be in the area of rural development -- water, sewer and transportation. Increases of one million each in technical assistance and evaluation are relatively minor amounts, but would double our 1979 funds for these activities.

EMERGENCY FUEL ASSISTANCE PROGRAM

Question: I am extremely concerned over CSA's administration of the Emergency Fuel Assistance program. As you know, last year I offered an amendment to the Economic Opportunity Act which authorizes this program to insure that it would be administered along the lines of Congressional intent. Unfortunately, the regs are worse this year than last year. For example, my amendment stressed that eligibility for the Emergency Fuel Assistance program should not be based on delinquent bills, and yet you have a disconnection notice as a specific precondition to individual eligibility. How do you explain this?

Answer: This year's program limits assistance to eligible households in an energy crisis situation which endangers health or life. If an applicant otherwise eligible for assistance has paid his bills at a hardship, he may qualify for assistance in other areas such as food, rent, or medical expenses. This year's regulations are consistent with the amendent to The Economic Opportunity Act which states "Eligibility for any of the programs authorized under this section shall not be based solely on delinquency in payment of fuel bills". Moreover, prior year programs were initiated after the winter, when some adjustment was necessary after the fact. This year's program was initiated in January before the Winter's bills could have been paid.

Question: By excluding States with bans on utility cut-offs from the Emergency Fuel Assistance program, you are further encouraging bill delinquency. You also are contradicting the public utility regulatory policies act section of the National Energy Act, which encourages States to set up policies which prohibit cut off of utilities. Through your regulations you have penalized those States, utility companies and consumers who have worked together to end the quick shut offs which many times result in death or severe injury to very poor families and individuals. Please comment on this.

Answer: We have not excluded States with bans on utility cut-offs from crisis intervention assistance. The existence of such a ban has no effect on the amount of funds made available to a State. However, applicants for assistance are not deemed to be in crisis until the ban ends, after which they will have until May 31, 1979 within which time they can be certified for assistance.

Question: Last year the timing of the issuance of the regulations was a real problem for all involved with this program. I acknowledge this problem was not caused solely by the Community Services Administration. This year, however, there should have been plenty of time for public and congressional comment on the regs, particularly in light of the problems we've had with this program in the past. First, why wasn't there a chance for public input, and second, do you intend to incorporate the many suggestions you have now received into a revised set of substantially changed regs?

Answer: We are well aware of the problems in local administration of last year's program which were caused by late enactment of the supplemental appropriation. I should like to point out that last year CSA's regulations were published in The Federal Register the day after the appropriations bill was signed by the President.

The change in regulations for this year's program in the Federal Register on January 22, 1979 reflected comments received from the public. We do not anticipate any further revisions in the regulation.

Question: I have been informed by my State of Pennsylvania, which qualified for $16.8 million in the program last year, that it will, because of the new reg, only qualify for $1,125,000. For your information, many poor Pennsylvanians spend over 25% of their income for energy costs. This figure is even higher for the elderly in my State who tend to spend over 35% of their income on fuel expenses. Because of the regs few of these families or individuals would qualify for assistance. I would like you to comment on this, and particularly why you dropped the figure of 25% of income spent on energy from consideration as a standard for eligibility?

Answer: The Commonwealth was allotted in 1979, $1,578,425 under the regular program, the formula distribution of the initial $15 million plus administrative funding and a set-aside for migrants and seasonal farmworkers. Up to $10.5 million in supplemental funds could be made available for Pennsylvania if conditions meet the program criteria set out in the regulations governing The Supplemental Crisis Intervention Program. With regard to energy costs as a percent of income, a distinction must be made between State eligibility and individual eligibility. State emergency eligibility when substantial numbers are spending over 25% was not included because it is impossible to verify on a statewide basis. Individual eligibility is still included if the individual is near-poor and suffering a life or health-threatening emergency.

ENERGY PROBLEMS OF THE ELDERLY

Question: Your program in the past purported to give special emphasis to the energy problems of the elderly. Why is it that no special preference is given to senior citizens in the current regulations? (In the past the elderly income eligibility standard was 150% of the poverty level, while others were deemed eligible only up to 125% of the poverty level designated by CSA).

Answer: The formula distribution of crisis intervention funds is weighted in favor of senior citizens with incomes of 125% of the poverty guidelines. Although the original FY 1978 regulations initially set income eligibility for the elderly at 150% of the poverty level, that was changed very shortly thereafter, and in fact no program ever operated with such an eligibility standard prior to the implementation of the EEAP (extended) program pursuant to the court decision in Greig v Olivarez. The court's decision with regard to the 150% eligibility standard was based on the purely procedural grounds that the change had been improperly published in The Federal Register.

One special preference given individually to the elderly in this year's program is eligibility of all SSI recipients. In addition, the regulation states that "Priority shall be given to persons facing life-threatening situations and to elderly persons (age 60 and over) who meet all eligibility requirements."

Question: Why didn't CSA continue with the regulations from last year's program inasmuch as administering agencies were already familiar with them and the same had been tested at least in part by the court's determination in Greig v. Olivarez?

Answer: The regulations for this year's program took into account our experience under previous programs and represents an attempt to prioritize on the basis of crisis needs.

Question: How did CSA arrive at the date of May 31, 1979 as the cut-off for providing assistance to low income households in this year's program?

Answer: We feel that since the program would be underway for the first time during the winter that a termination date of May 31, would be adequate to certify all eligible applicants including those in States with temporary bans or utility cut-offs.

Question: Isn't it true that many delinquencies will possibly exist after this May 31 date because many areas of the country will have significant degree days in April and May which will be reflected in June's billing by the utility?

Answer: There probably will be some delinquencies after May 31, although very few areas of the country will have a significant number of heating degree days in May. For example, Pennsylvania's normal average for April is 459 and for May 192. This means that the average daily temperature in Pennsylvania in April is 50. However, the purpose of the Crisis Intervention Program is not simply to pay delinquent bills. This program seeks to intervene in health and life threatening situations, and after May 31, such situations will be very rare.

STATE ALLOCATIONS

Question: How is the money to be allocated to the various States?

Answer: Program funds have been made available to the States under a formula based on heating degree days, relative number of near-poor families and elderly poor. Such availability will be modified based on relative severity of energy emergencies as they occur.

Question: Would you describe the three sub-programs that make up this year's Crisis Intervention package so we might get a better idea as to how the money is to be divided?

Answer: The three sub-programs and their tentative funding ceilings are the regular program, the supplemental and the disaster relief program. Initial distribution of $24 million under the regular program seeks to establish capacity to meet individual crisis situations. An additional $20 million has been allotted under the supplemental program as of February 7, 1979, and the balance is available for disasters and energy emergencies as they arise.

Question: It is my understanding that you have degree day formulae to determine what State or region is or is not eligible for

funding in two of your sub-programs - isn't that correct? Would you explain these formulae?

Answer: The regular program distribution of funds is based on a formula which limits State eligibility to those States or areas within States having 3,000 or more cumulative population-weighted average annual heating degree days. The formula also reflects the relative number of low-income households and the number of low-income individuals aged 60 and over. No formula is prescribed for the distribution of supplemental funds. We have used the same formula as a guideline, but will revise it according to emergency conditions as they occur.

Question: What standard did you apply to arrive at the degree day formulae set out in Appendix B of your rules in the Federal Register, Volume 44, No. 15 dated Monday, January 22, 1979?

Answer: The table shown on Appendix B is a listing of 40-year averages of each State's population-weighted normal annual heating degree days as recorded and computed by The National Oceanic and Atmospheric Administration of the Department of Commerce. . Those States having 3,000 degree days or more were included in the initial distribution of program funds under the regular program. In addition, seven States having areas within the State of 3,000 or more average annual heating degree days were included, with the allotment of funds limited to grantees serving counties within those areas.

Question: How much money do you contemplate being available under each of the sub-programs set out in 1061.52-8 (a)(2) and 1061.52-9 of the CSA regulations in the January 22, Federal Register?

Answer: $24 million was allocated in the initial distribution under section 1061.52-7. The balance, $176 million is available for the two other programs and will be distributed according to conditions as they arise.

Question: How much of that money will go to Pennsylvania, for instance?

Answer: $1,565,000 was allocated to Pennsylvania within the initial distribution of $24 million. Illinois, a State of similar program characteristics received $1,319,000 in the same distribution.

Subsequently, Illinois qualified for both the supplemental and disaster programs and was allotted an additional $10.2 million. While there is no entitlement under these two programs, a similar amount could be expected in Pennsylvania if similar conditions occur.

Question: For example, in section 1061.52-8 (a)(2)(ii) of the regulations, you state that if there has been an increase of 20% or more in the price of a major fuel or utility service since May 1, 1978, that is a trigger for program eligibility for a given region - correct?

Answer: If there was a 20% increase in the cost of a major fuel or utility in a State or portion of a State, supplemental funds would be made available for the affected area.

Question: Do you know anywhere in the country that has suffered such a drastic increase in fuel prices in that short a period?

Answer: Montana has documented such a price increase and we expect documentation from Minnesota and parts of Massachusetts.

FUEL OIL PRICE SURVEY

Question: I have before me the latest fuel oil price survey from DOE's December 1978 monthly energy review. (p. 82-83) Did you review this document during the time you made the decision to insert this "fuel price" trigger in the regulations?

Answer: No, we relied on prior years experience.

Question: Are you aware that not even in New England, where fuel oil prices are escalating rapidly, do I see a 20% jump in price? (Fuel oil prices are about 55¢/gal. currently.)

Answer: Yes, but the real price crisis occurred in 1974. If normal price inflation is double-digit, 20% is a reasonable crisis definition point.

DECLARATION OF STATE DISASTER AREAS

Question: How many States have declared areas within the jurisdictions as disaster areas this winter?

Answer: Only Illinois as of February 7, 1979.

Question: How many States or regions do you project to be eligible for crisis intervention monies over and above the $15 million allocation set out in section 1061.52-7?

Answer: That will depend upon winter weather and energy conditions as specified in sections 1062.52-8 and 9. On February 7, 1979 four States had qualified and three more were about to be designated. We project that half the States will qualify.

SUBCOMMITTEE RECESS

Senator BURDICK. We will then recess until Thursday, February 8, when we will resume related agency testimony at 10 o'clock in S-128 of the Capitol.

[Whereupon, at 11:50 a.m., Wednesday, February 7, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, February 8.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

THURSDAY, FEBRUARY 8, 1979

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

The subcommittee met at 10:05 a.m. in room S–128, the Capitol, Senator Mark O. Hatfield presiding.

Present: Senators Hatfield, Inouye, and Schweiker.

CORPORATION FOR PUBLIC BROADCASTING

STATEMENT OF ROBBEN FLEMING, PRESIDENT

ACCOMPANIED BY:

JAMES B. CARDWELL, VICE PRESIDENT, MANAGEMENT AND ADMINISTRATION, CPB

COURTLAND ANDERSON, EXECUTIVE VICE PRESIDENT, CPB

BUDGET REQUESTS

Senator HATFIELD. The subcommittee will come to order.

We will begin our hearings today with the Corporation for Public Broadasting. The Corporation for Public Broadcasting is a private nonprofit corporation established by the Congress to administer the funds they have received from Federal appropriations and private contributions.

This year we have before us three different appropriation requests.

The first is for a fiscal year 1979 supplemental appropriation of $18.5 million. The President's budget did not include such funds, which represent Federal matching of the unanticipated private contributions received during fiscal year 1977.

Due to the delayed authorization for the Corporation last year, we must also consider budget requests for fiscal years 1981 and 1982. CPB is asking for $180 million and $200 million respectively. Again, these amounts would contain a full authorized Federal match of expected private contributions. The administration has requested that we reduce the Federal share down to $162 million in fiscal year 1981 and $172 million in fiscal 1982.

Mr. Robben Fleming, the Corporation's new president, is our principal witness. And we also recognize Mr. Cardwell, the vice

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president, management and administration, and Mr. Anderson. Mr. Anderson, tell me your title again?

Mr. ANDERSON. Executive vice president.

Senator HATFIELD. Mr. Fleming, we have your full statement, which will be placed in the record.

[The statement follows:]

STATEMENT OF ROBBEN W. FLEMING, PRESIDENT, CORPORATION FOR PUBLIC BRAODCASTING

Mr. Chairman, Members of the Committee, this is the first time that I have had the privilege of appearing before you as the President of the Corporation for Public Broadcasting -- the third President in CPB's eleven-year history. It is interesting to note that as I begin my administration, I do so under a new authorization Act just recently passed -- an act that presents CPB and all of public broadcasting with new challenges and new opportunities. I look foward to meeting these new challenges and opportunities, and submit these budget estimates to you as a first step in that effort.

Following the traditional approach to appropriations for public telecommunications, the President's 1980 budget requests funds for this purpose to be available for obligation and expenditure in 1982. Since authorizing legislation for the period beginning in 1981 was passed too late in the last session of Congress to allow appropriations to be enacted for 1981, both the President's budget and our presentation here today also proposes appropriations for that fiscal year, as well as 1982. In summary, this request covers two fiscal years -- 1981 and 1982.

We would also like the opportunity to speak today in support of a supplemental appropriation for 1979.

1981-1982

Both our 1981 and 1982 requests reflect the expanded mission and increased responsibilities assigned by the Public Telecommunications Financing Act of 1978, enacted last October. I refer to the fact that, in addition to increasing the authorization for federal support of public telecommunications, the new Act:

-- expands the scope of federal financing to include not just traditional over-the-air broadcasting, but a whole host of new techniques and methods for distributing program services.

-- imposes on CPB new and enlarged requirements for public telecommunications planning and development.

-- calls for increased allocations of federal funds to programming and widening and increasing the opportunity for such programs to reach larger and more diverse audiences.

-- finally, the new law makes clear its expectation for improved management at every level in the system and improved accountability in the areas

of resource application, public participation, and equal opportunity.

In general, the new statute creates an expectation for more and better public telecommunications and for increased federal support for all aspects of public telecommunications. As we discuss the budget today, I hope to be able to demonstrate its relationship to these new mandates and responsibilities.

Highlights of the 1981 and 1982 Appropriation Requests

In the case of both 1981 and 1982, the Corporation is requesting appropriations at the full amount authorized for each of the two years, and on the basis that these amounts are necessary if we are to fulfill the requirements of the 1978 legislation and, more important, if we are to match the non-federal financial support that will be available from non-federal sources for each of the two years. Our request preserves the tradition of having federal support always match audience and other matching funds up to the full limit of the authorization.

The President's budget, however, departs from that tradition and proposes federal appropriations for each of the years somewhat below the level of the match and the level of the legislation, as follows:

- For 1981, at the President's level of $162 million, public broadcasting would have to raise $324 million in non-federal funds. At the CPB request of $180 million -- the same as in the authorizing legislation -- public broadcasting would have to raise $360 million, or $36 million more than the President's level. If current trends continue, private voluntary funds will exceed the $360 million match proposed by CPB.

- In 1982, at the President's level of $172 million, public broadcasting would have to raise $344 million in non-federal funds. At the CPB request of $200 million -- the same as in the authorizing legislation -- public broadcasting would have to raise $400 million, or $56 million more than the President's level. Again, if current trends continue, matching funds will exceed the higher amount.

As I have said, in both years it is our expectation that public broadcasting's private, voluntary income will exceed the amounts required to meet the authorized ceiling which we are requesting be appropriated. At a minimum, therefore, we recommend that the Congress appropriate the full amount of the authorized ceiling in order to preserve the matching principle, and in order to encourage further growth in voluntary, private support for public telecommunications.

Mr. Chairman, we are well aware of the need to constrain the federal budget and the need to have that budget reflect the needs and interests of the people. I think it is both interesting and important to note that even in this era of concern about the size of federal public expenditures, the citizens who support public broadcasting are still prepared to increase their contributions in anticipation of increased federal matching. We believe that contributions of the audiences and others provide a clear indicator of what the public wants and expects in terms of the share of the federal budget that should be available for public telecommunications. At the risk of repeating myself, I would again express our strong opinion, Mr. Chairman, that voluntary matching funds available for both 1981 and 1982 will in fact significantly exceed not just the level of the President's budget request, but the authorization levels as well.

At this point, Mr. Chairman, I believe it would be helpful to examine, at least in summary form, how the request for 1982 will be allocated.

Over $120 million of the $200 million request -- 60% -- will be distributed directly to public telecommunications operations at the local level. Of this amount $118 million will be in the form of unrestricted operational support grants to public television and radio stations. The remaining $2 million will be awarded to the stations for the training of minorities and women at all levels of station employment.

Almost $46 million, about 23% of the appropriation, will support new and expanded national television and radio program production. By this time, both TV and radio programs will be distributed by satellite. The need for new programs is, therefore, critical. CPB will continue to apply its funds to high priority areas otherwise unserved by other program sources -- particularly programs that serve minorities, the handicapped and the elderly.

Slightly less than 11% of the appropriation will support the national interconnection systems for television and radio. These funds will be used to lease transponders, finance debt service and our new satellite systems, and pay for the operation and maintenace of ground terminals and connections.

CPB's allocation for management and administration conforms to the provisions of the new law which set a 5% ceiling on such expenses. The funds requested will only support CPB's existing activities in this area. The allocation does not provide for any additional activities CPB may wish to support in an attempt to reduce the duplication of services at the national level often mentioned by this committee and others.

Slightly less than 2% of the appropriation will be allocated to program and engineering-related research, and a small contingency reserve.

Mr. Chairman, our submission contains estimates for both 1981 and 1982, and the trends for 1981 are about the same as I have described for 1982.

With your permission, Mr. Chairman, I would like to very briefly summarize our request for a 1979 supplemental appropriation. We are requesting $18.53 million, which would bring the total CPB appropriation for 1979 to $138.73 million. This would match the total non-federal income raised by public broadcasting at the 2.5 to 1 matching ratio, and be within the $140 million authorized by law.

CPB proposes to distribute the funds to three very important areas: increased support for programming; increased support for the use of non-broadcast technologies for the dissemination of public telecommunications services; and operational support to the stations. Each of these areas has been given renewed or increased emphasis in the recently passed Public Telecommunications Financing Act of 1978.

Mr. Chairman, this concludes my remarks, which, out of concern for time have been limited to a summary and highlights of our request. We will, of course, be glad to try to answer any questions or to provide any additional information or materials that the Committee might like.

BIOGRAPHICAL SKETCH

Robben W. Fleming, former President of the University of Michigan, has been president of the Corporation for Public Broadcasting since January 3, 1979. Fleming was elected president by the Corporation's Board of Directors at its annual meeting September 15, 1978.

A labor lawyer with a speciality in mediation and arbitration, Fleming has been successful in bringing together diverse groups during his career. His work in labor relations led to his selection in 1966 as president of the National Academy of Arbitrators, the professional association of arbitrators. Fleming also served with the Securities and Exchange Commission, National Emergency Housing Program and National Wage Stabilization Board.

Fleming's extensive professional background includes wide experience not only in education and labor relations, but also in human resources development. Prior to assuming the presidency of the University of Michigan in 1967, Fleming was Chancellor of the University of Wisconsin at Madison and professor of law at the University of Illinois.

He has served in a number of key educational offices outside these institutions, having been elected chairman of the American Council on Education, 1976-1977, and president of the American Association of Universities, 1973-1974. He also served as chairman of the New York Blue Ribbon Commission on Graduate Education and chairman of the Carnegie Fund for the Advancement of Teaching.

Fleming's business and government experience includes serving as a director of the Chrysler Corporation and John Deere and Company. He was a member of the U.S. Department of Commerce Technical Advisory Committee and other state and federal committees in the fields of education and manpower. In 1976-1977, he was co-chairman of the Task Force on Education, the White House Conference on Education.

Honored with degrees from 19 institutions of higher education, Fleming was named one of 44 outstanding educators in America in 1975 by Change Magazine. As president of the University of Michigan, he was responsible for the university's public broadcasting station, WUOM-FM.

Author of numerous articles in law reviews on industrial relations topics, Fleming has also written two books -- The Labor Arbitration Process and The Politics of Wage-Price Decisions.

Fleming received his bachelor's degree from Beloit College, Beloit, Wisconsin, in 1938 and a law degree from the University of Wisconsin in 1941.

He is married to the former Aldyth Louise Quixley; they are the parents of two daughters and a son.

ACCOMPLISHMENTS AND DUTIES OF THE CORPORATION

Senator HATFIELD. You may summarize your statement.

Mr. FLEMING. Mr. Chairman, I think I will summarize it.

You have met my colleagues, and it is quite possible that the chairman of the Corporation for Public Broadcasting Board, Lillie Herndon, will be coming in. She expected to be here. The weather delayed her somewhat, we know not where. But if she comes in, I would like to introduce her.

This is the first time, of course, that I have appeared before this committee in this role as president of the Corporation. There are areas about which my colleagues are more knowledgeable than I. Therefore in the course of questions you may have, I may ask them to respond, because there are many things they know more about than I do.

Senator HATFIELD. Mr. Fleming, this is my first day on this subcommittee and I may refer to my staff. Maybe we could be excused for a couple of moments and just talk between ourselves.

Mr. FLEMING. I look forward to that.

I begin this administration, of course, under the new authorization act which was passed in 1978, which does impose some new duties upon the Corporation, and I do want to talk about that for a few minutes as we go.

One of the great accomplishments, as I have seen it from the outside looking in over the past few years, is that agreement of the Congress to forward fund the Corporation. Actually, the President's 1980 budget request really requests funds for CPB's expenditure in 1982. That's because of the ongoing nature of the Corporation's work and the necessity for advance commitments, which made it very difficult until that scheme of forward funding was agreed upon, to give it the stability which it needs.

SUMMARY OF CPB REQUESTS

As you have noted in your opening statement, the 1981 authorization was not passed in time for the appropriation for 1981. So we have to consider that along with the 1982 request which is being made here as a part of the President's 1980 budget.

So we will really be talking about three things: The 1981 appropriation; the 1982 appropriation; and finally, the makeup of that $18.5 million supplemental with respect to the 1979 sum.

If I may make a few brief comments about both the 1981 and the 1982 requests. There were a number of additional responsibilities assigned to CPB in the Telecommunications Act of 1978. It expanded the scope of Federal financing to include not just the traditional over-the-air broadcasting, but a host of new techniques that are being developed which are very exciting and some of which I have just seen for the first time, and which I am sure you would find as exciting as I do as you look at them, and perhaps as mysterious.

When I looked at a videodisc the other day, saw how it operates, I now know a great deal more about it than I understand. [Laughter.]

I can see it, I can watch it operate, I understand the theory of it and it certainly works. But exactly why is not very clear to me. But anyway, it does open up enormous new possibilities in this whole field. And we were charged with some activities in developing that.

There has been, I think, a feeling that the planning and development for the years ahead has not been adequate, and therefore there was a call for further work in the planning of telecommunications development.

Senator HATFIELD. Excuse me. Are those projects that you are looking into, additional technology and are those in-house or are those contract research?

Mr. FLEMING. They're a little of both. There are areas—we do not have a large engineering staff, but ideas may be generated there and then work contracted for outside, or in some cases developed to some limited extent inside. I think it's accurate to say that our own engineering staff is not maintained at a high enough level to do a great deal of that work internally.

Apart from those things, there was increased allocation of Federal funds for programing and also for widening the opportunity to reach more audiences. And there are, both in the television area and in the radio area, new stations being added all the time; in television at the rate of five or six a year, and in radio it could be 200 or 300 over the course of several years. Some of those will reach areas that are not now covered.

And then, finally, there was concern that there ought to be a greater monitoring of certain kinds of activities. There is some dissatisfaction in the area of auditing, of whether stations were keeping records of their expenditures of these funds in a way which left a trail that could satisfy congressional interest in how the money was being expended; interest in the whole area of affirmative action and equal opportunity employment; interest in the development of public advisory councils which might give the public a greater say. We have been given some monitoring and developmental responsibilities in those areas which we're expected to carry out.

Senator HATFIELD. I hope you don't get overly burdened with paperwork in getting this kind of information.

Mr. FLEMING. That is a problem. I know I have seen that a great deal in other roles.

Senator HATFIELD. As you begin the process, it seems to me you have a better chance of holding to a reasonable limit than when you inherit an already established procedure. There is an unbelievable kind of geometric expansion in all agencies. I hate to see a new process begin that doesn't have a sense of constraint to begin with.

Mr. FLEMING. I agree. I said the other day to some people I was talking with that I've been on the other side of the fence, complaining about this great paperwork and so forth. And so, I would like us to find a way in which we could constructively further the process without imposing enormous burdens in the solution to the problem.

I am very sympathetic with your comments, and I hope, now that I'm on the other side, I'll find a better way to do it. [Laughter.]

HIGHLIGHTS OF FISCAL YEAR 1981 AND FISCAL YEAR 1982 BUDGETS

Well, if I may talk a minute about the highlights of both the 1981 and the 1982 budgets. We have requested, as you noted in your opening statement, that in both the 1981 and 1982 appropriations, the full amount authorized be appropriated for both of those years. That is essentially because if we are really to develop this matching principle—and the basic idea behind the matching principle was, of course, that if you generated funds in that fashion you didn't tie it to any specific tax and could better maintain this separation between funding and programing that's always been such a sensitive issue in this whole telecommunications field.

But if you want to make that system work, it seems to us you have to then appropriate the amounts that will accord with what is authorized. Because what is happening now, and what we anticipate will happen increasingly, is that in fact the stations are raising more dollars through their efforts to generate private funds than the matching principle will pay for.

And so, though the President has asked for a cut, we have gone ahead and are asking you for the original authorized levels. For 1981, for instance, the President's level is set at $162 million, while the authorization runs higher and we have asked for the full $180 million. In either case we are satisfied, on the basis of past experience, that private contributions will outrun the money available for the match.

Similarly, in 1982 the President has asked for $172 million. We have left it at the authorized level of $200 million. Now, that is not, I should say, because we are unaware of the President's desire to contain the inflationary forces and we understand that he may require cuts in all the budgets. We think there may be a special word to be said for why the match ought to be maintained here.

First of all, it's one of the very few cases where voters in effect vote with their checkbooks. That is, by making the contributions to the stations in expectation that that will in turn produce a match on the formula from the Federal Government, it can be argued that they have said, whatever other expenditures there are, here is one we are interested in because we are giving you additional money through our private funds for that purpose.

FEDERAL MATCHING FUNDS

Senator HATFIELD. On that basis, couldn't they be encouraged to give more to make up for this differential?

Mr. FLEMING. Well, it may be that they can. But of course, they have been encouraged—and they are outrunning the match now. But one wonders, when you make the plea to people to make contributions on the theory that if they will do that it will be matched by Federal funds and they then make the contribution and it is not matched——

Senator HATFIELD. Their formula might be changed in such a way that they are giving actually more for the Federal match. Would that destroy the principle?

Mr. FLEMING. Yes, it could be changed. But if one did that, it might raise some questions of credibility about it, because they would say, "Well, what has happened is that we have made contri-

butions in the expectation of the formula being fulfilled, and what has now happened is that the formula was changed in order to match——"

Senator HATFIELD. You would have to do it prospectively in order to maintain credibility.

Mr. FLEMING. Yes.

Senator HATFIELD. That could be, at least, an option if you were put up against the wall.

Mr. FLEMING. Yes. Of course, the new Carnegie report goes the other way and calls for a somewhat greater Federal contribution.

The immediate purpose of the President's inflation program perhaps has more effect on most budgets which are talking about the next fiscal year. We are talking, after all, about the years 1981 and 1982, which are some time in advance, and therefore perhaps the current rules have a little less application in that area.

In any event, we feel compelled because of the match principle which is in being to ask for those appropriations on that basis.

I think it might be helpful now if I simply summarized the request for 1982 and how it would be allocated.

ADMINISTRATION'S FISCAL YEARS 1981 AND 1982 REQUESTS

Senator HATFIELD. Before you do that, do you feel that the $162 million for 1981 is going to be sufficient to meet your additional responsibilities that you referred to?

Mr. FLEMING. Since it represents an increase, it's fairly clear, it seems to me, that we can't argue that we cannot do what we are doing, despite the fact that there has been a significant increase.

We can obviously not do as much.

For instance, as I read the materials about the history of this Corporation, one of the most severe criticisms has continually been that we do not use enough of our money on programing, that that really is what this is all about.

And yet, we are spending a good deal of money on other things.

Well, the truth of it, I think, as I get into it and look at it, is it doesn't do you very much good to program if you haven't got facilities, for instance, over which to show your program. So you end up using some of your money for that purpose.

You have the principle that the Congress would also like some very substantial local input, this as compared with national input.

And so if you want to do that, you must give some of that money for locals.

Then Congress has imposed some additional duties about looking into new technology, monitoring some of these functions. The more additional things like that we get asked to do, the less money we have available for programing.

And I would say that in the last act, we were asked to try to see that a substantial amount, and substantial was sort of put in unofficial terms of 25 percent, was to go into programing.

On the 1982 budget, if it's pitched at the $200 million level, we would distribute about 60 percent of it back through the local channels through community service grants. And those are really kind of unrestricted. They can use that for what they want.

They use a great portion of it for programing, in any event, but they are free to use it for what they want.

At the $200 million level, about 23 percent would be put into programing, and that is up several percentage points over the amount we are now able to put into programing.

It follows that if there is less than $200 million in the 1982 budget, we fall further from meeting that goal of 25 percent, because the more money there is available the more flexibility and freedom we have to get it into programing.

So there is a problem in this respect. And of the $200 million in 1982, as I say, about 60 percent of it would flow through to the local stations, either through the training grant system, which is an effort to help women and minorities in particular get into the mainstream, or through the unrestricted grants which permit them to spend it on community services.

Senator HATFIELD. Is your 22 percent figured——

Mr. FLEMING. Twenty-three percent.

CPB PROGRAMING FUNDS

Senator HATFIELD. Twenty-three on the program. Does that include the programing that occurs in the local area, or this is just the national level?

Mr. FLEMING. Just the national.

Senator HATFIELD. How would you extrapolate? Is it possible, or is the record system that you want to adopt going to give you the capacity to extrapolate those dollars that are expended from the program at the local level but a passthrough?

Are you able to determine what percentage of that——

Mr. FLEMING. Mr. Anderson probably knows the answer to that better than I since he works directly with that.

Mr. ANDERSON. There aren't definite figures available now as to how much of the CSG money is used for programing or even national programing. But surveys we have done indicate about two-thirds of it is. We would like to develop a system that would be more precise.

Senator HATFIELD. For 1982?

Mr. FLEMING. For 1982, yes.

In that same budget, about 11 percent of that appropriation would support the interconnection systems for television and radio. We have now brought on line the television satellite system which in large part, will be operative by the end of this year and early 1980.

That would be fully operative.

That gives us the opportunity for multiple channels, among other things, and therefore, greater chance for a higher quality of programing.

We also are about to get the radio system hooked into the satellite. That, again, will result in a much higher quality of programing.

So about 11 percent of our money will be spent in that area.

CPB ADMINISTRATIVE COSTS

Mr. FLEMING. We were mandated by the Congress to limit our administrative exenses to 5 percent. And I do want to call your attention, Mr. Chairman, if I may, to some problems.

In a sense, though, I am fully sympathetic personally with holding the administrative cost as low as one possibly can because the real success of this enterprise is in the programing, it seems to me, not in the administration.

But there is a self-defeating aspect of setting a 5-percent ceiling on administration.

If we are successful, as we would hope to be, for instance, in meeting the criticism of the Congress that there is some duplication of function between the Corporation and NPR and PBS, and we are going to undertake conversations toward that end. If we are successful in those conversations, it would mean some reallocations of functions between us. It could mean some expansion of the administrative activities of CPB.

For instance, the Carnegie report suggests some of this. And if that is true, you would inevitably raise your administrative costs above the 5-percent level.

Yet, the overall achievement in administrative costs might be quite successful, because you might remove from one of the other agencies a certain amount of duplication.

And I would urge the committee in thinking about that to allow somewhat more flexibility than the current law permits.

Senator HATFIELD. Where are you now, Mr. Fleming?

Mr. FLEMING. We are now, as I understand it, slightly over 5 percent.

Mr. CARDWELL. Today we're running about 6½ percent. We ought to point out that in this category entitled, "administration," there is a series of activities that are not administration in the normal sense of the word, in that we spend money on capacity building for the local stations, for example. We will spend money through contracts for training. And that training is training station personnel. The way the Congress wrote that legislation, that gets charged against the 5 percent. That's also charged against the 6½ percent that I have cited, but that is not normally looked upon in normal business or governmental——

Senator HATFIELD. What percent of your 6½ current administrative level will that represent?

Mr. CARDWELL. Well, 1½ to 2 percent.

Senator HATFIELD. In other words, you would be in the 5 percent now——

Mr. CARDWELL. If it were applied in a traditional way, we would be within the 5 percent.

Senator HATFIELD. Has the authorizing committee been given this kind of——

Mr. CARDWELL. What they did, as a matter of fact, is compromise. We pointed out the fact that such things as research surveys to determine audience interest and listening behavior and watching behavior, training and other capacity-building should not be treated as administrative expenses.

They split the difference.

They took the engineering research and surveys of audience preferences and interest out of the limitation, but left in the other capacity building activities.

Mr. FLEMING. We are not required, Mr. Chairman, until fiscal 1981 to be within the 5 percent. But we are working toward that and we are making our budget plans on that basis.

Senator HATFIELD. And do the present configuration of those components make up administrative costs that you mentioned?

Mr. CARDWELL. Even including those, we will be within the 5 percent by 1981.

Mr. FLEMING. But my suggestion is if we could work with your staff on this, I believe that there is a potential for some administrative savings in terms of potentially duplicating functions. And if that is so, we might end up far better off in the long run in total administrative expenses.

EFFORTS TO LIMIT ADMINISTRATIVE COSTS

Senator HATFIELD. How are you planning to absorb this 1½-percent excess over the 5-percent goal level between now and 1981?

Mr. CARDWELL. We are going to have to deliberately cut back many of those activities that are entirely internal. One of the paradoxes we face is that during the same period, the new statute does appear to expect us to increase some of the capacity building to support the system. The way we have developed it in the budget is we take the cuts against our own direct operations.

Senator HATFIELD. Taking the service programs and the training programs into that.

Mr. CARDWELL. In fact, this does occur with some—the base is expanding during this period and that makes a difference. The thing that makes it possible is that this occurs in a period when the total resource envelope is expanding.

Mr. FLEMING. But the other side of that coin still is that we are to try to reach the goal of spending more of our money on programing. And I am completely sympathetic with that because I think that it really is the guts of the operation. You don't want to absorb any more of that increased envelope in these other things than you have to. And yet, we do have these duties that are imposed on us.

Senator HATFIELD. Did you happen to take this matter up with OMB during that part of your budgetary process?

Mr. CARDWELL. Not in any detail. Our budget comes under review by the Office of Management and Budget, really, somewhat in toto. They do not examine the various parts.

Senator HATFIELD. They just tell you to cut so many parts, the meat axe approach.

Mr. CARDWELL. Well, it partly has to do, though, with our organization and our relationship to direct our activity.

Senator HATFIELD. What was the rationale? What were the arguments they gave you in terms of their use in this?

Mr. FLEMING. This was before I came, so you'd have to ask the others.

Mr. CARDWELL. I think generally they saw it as a part of the overall reduction of Government's expenditures. They reasoned that

even with the reductions proposed by the President below the authorized levels, that there would be an oportunity for expansion.

There still would be increases one year over the next. I would point out that originally, last year, the President submitted a request for $10 million higher than the request submitted this year for 1981.

That reduction of $10 million occurred between the time of last year's budget and the enactment of the new legislation which, as was pointed out, does impose, or at least create, expectations for an expanded operation.

We'll just have to work our way between those two extremes.

FISCAL 1979 SUPPLEMENTAL

Mr. FLEMING. That, I think, completes largely what I was going to say, and on the 1982 budget.

The trends in the 1981 are essentially the same as in the 1982. I don't think there are significant differences and, therefore, I think I would like to make simply a final comment on the 1979 supplemental.

We have about $120 million at this point in time. If the authorization level on the matching was added, it would add about $18½ million.

So our total would be something over $138 million rather than $120 million. That would be within the matching principle. If we had that money, we would use it for increased support for programing. We would do some further work on nonbroadcast technologies, the kinds of things we were talking about earlier in the new technology area and something more in the operational support of stations.

All of those have been given increased emphasis in the 1978 act. And so we think it quite appropriate that that's where the expenditure should fall.

Mr. Chairman, that really concludes my remarks. We will be glad to try and answer any questions you may have beyond those we have so far discussed.

PROGRAM FUNDING PROCEDURES

Senator HATFIELD. Thank you, Mr. Fleming. There have been a number of questions prepared by our very able staff, and I would like to ask a few of these orally and then submit others to you for written response.

When we talked about programing, and I certainly affirm your views on that, there have been articles written, which I understand, are being critical of the public television. They refer to it as bureaucratic obstacles to the so-called creative television programing. And there are moneys, I understand, here in your budget to increase funds that would provide particular support to the American television creative community.

Now if such funds are increased for that specific purpose, and if there are obstacles today, encumbrances that tend to retard that kind of development, what do you propose to cut the so-called redtape and encourage the new producers to get involved in public television?

Mr. FLEMING. I think that's a legitimate question. I can't fully answer it at this point, but I can make some comments about it, I think.

First of all, I think it's fair to say that under any system one can develop within the range of human capability, there will be complaints about it.

In other areas, in my experience, I never found a total capability to satisfy all of the critics who believe one ought to perform one way as against another. And that is because your critics have very different interests. Some of them want it to be done one way, some want it another way, and those two ways are in conflict.

Therefore, I would never foresee a period in which we would be without criticism for how we handle the program part of it.

Having said that, however, I think one can do better as against worse; that is, I think it is fair to say that our method for breaking into our programing cycle is not as clear to a lot of people as it should be.

I think it is clear that we have not solved the problem of the independent producer, who feels that he or she doesn't have a fair opportunity at this point.

So I think that we have to do some things about that.

It is clear, it seems to me, that money limitations are one reason why the criticisms that we use too many foreign productions, for instance, come about. There is a cost-sharing principle there that pushes down the costs of some of those programs, as compared with straight-out American productions.

There is criticism of the way we make decisions on what programs ought to come along, and who makes those decisions.

I have hopes that we can restudy this whole process, and that the net result of it will be to meet a number of the criticisms about it now.

I am not hopeful that they will ever all be met, but I think it can be a significantly better system than it is now, and I think we expect to spend a lot of time on that. Maybe Mr. Anderson can give you more details, if you want, but I think that's the overall prospect.

Senator HATFIELD. Mr. Anderson?

Mr. ANDERSON. I would merely point out that we have already undertaken steps to improve the process, and in fact even as we sit here a group is meeting here in Washington working out a new process to deal with one particular type of programing, children's programing, a process which will be more open and which we think will result in better programs.

Senator HATFIELD. But are you addressing yourself to—as I understand, one of the real bases of complaint which is a procedural question. It's a matter of procedure or the processes which relates to the relationship of the Corporation to the local and other parts of the general community of potential producers or potential performers.

Mr. ANDERSON. We're dealing with that on an overall basis. As Mr. Fleming has suggested, we are not going to satisfy everyone in this process.

Senator HATFIELD. I understand that.

Mr. ANDERSON. But clearly we are making headway, and I think others in the public broadcasting community would agree that we have worked with them to try to make better procedures and we are working together.

I think it has been successful so far, and we expect more success.

ELEMENTS OF PROGRAM FUNDING

Mr. FLEMING. Mr. Cardwell, I think, wanted to make a comment on that.

Mr. CARDWELL. I want to demonstrate that I think we do understand the dimensions of the problem, even though we do not appear before you today with all the solutions.

Part of the problem is one of just the operating process, the way in which one puts before potential funders, CPB being one, a proposal, a format, a timetable.

The other is the way in which the funding relationship is eventually established. Shall it be by grant? Shall it be by contract? And if so, what kind of grant? What kind of contract? There are those kinds of problems. And they, I think, are well within our determined capacity to work on, and we are actively working on them.

The other one is the interaction between the various institutions that make up the system. CPB is just one of the funding agents. There are others. The interaction between the funders and the stations themselves, the people who actually show the programs, and most particularly the interaction between the various funders, CPB being one, and the two distribution organizations. The Public Broadcasting Service distributes television programs and National Public Radio distributes radio programs.

And there is the question of the role that each of them is to play or not to play in producing programs themselves.

The latter questions are going to call for an awful lot of give and take by the various parties, to deal with what is a long-range problem.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY

Senator HATFIELD. In the administrative area, there has also been raised from time to time the question on financial management and accountability of public broadcasting at every level.

Now what is your Corporation doing about, or planning to do, to upgrade the so-called financial and management and accountability of the recipients of these funds? You brushed on that a little while ago.

Mr. FLEMING. I think Mr. Cardwell can best answer that, because he is in charge of the program, and we do have a program.

Senator HATFIELD. This is also related to either the increased capability that you will have along with the increased funding. I imagine there is a direct relationship.

Mr. CARDWELL. Yes, I think there will eventually be one. Let me describe to you what we are doing. Part of it can be traced directly and specificially to provisions in the new statute.

The statute itself clearly has as one of its interests the upgrading of management capacity at the station level, and as you say, at practically every level in the system. It specifically directs us, for

example, to establish within a year a set of accounting principles that would act as an umbrella over the way in which stations and various parts of the system would organize their books, their records, their accounting reports, the way in which they would treat income, direct expenses, indirect expenses, and whatever.

UNIFORM ACCOUNTING PRINCIPLES

So the first undertaking we have is to establish a set of accounting principles, and they have to be concurred in before they become effective by the General Accounting Office. That was prescribed in the statute.

We propose to do that this year under contract with a national accounting firm. We have established a steering group that is made up of various station representatives, who maintain stations as parts of colleges and universities, and we've asked the General Accounting Office to participate in the steering group and they have indicated they will do so.

We want them to be involved while this design is being worked out, and not to come in on the end of the process. Our target is to have that finished by November of this year.

The next step is to establish a method for valuing various kinds of classes of indirect costs. That has proved to be a problem in this system, and it's a problem for most kinds of operations. That enterprise will also be done through a contract, and it will be finished within the next 4 or 5 months.

Next we would design, over the period of the next 18 months to 2 years, a series of model systems which we would make available to various kinds and classes of stations. There are some very large, sophisticated systems, and in contrast, some very small, unsophisticated stations.

AUDIT GUIDES AND STANDARDS

Next we would establish a series of audit guides and standards. There are over 400 individual institutions involved in this system. It's quite clear to us, with a 12-man central audit staff at CPB, that we could never do all the auditing or fulfill all the accountability expectations that you want us to. So we want to follow a system where they can be self-audited at the college-university level, if it's a college station; at the community level, if it's a community station, using private and public accountants who would certify back to us their work against our guides and standards.

We think we can also finish that project in a year, maybe a little longer.

Finally, we would offer training assistance to financial management staff at the local level. Together, we see these steps as a package which, over a period say of 2 years, should afford some significant improvements.

This has been done before by other activities similar to ours. So we are fairly optimistic. The overall cost to us in direct expenditures we estimate to be about $200,000 this year and about $200,000 next year.

Senator HATFIELD. I hope I understood you that there is a flexibility factor in terms of setting up some of these models that would provide a reasonable system to obtain the information, and at the same time to keep within a cost boundary.

Let me illustrate my concern. Recently, Treasury determined a new process procedure for handling the payrolls. And I guess the system would be quite practical for HEW, or the Pentagon; but when we have a National Gallery of Art before our other committee that I served on the other day, I found an item in their budget request that was an astronomical increase because they had to comply with the new payroll system set up by Treasury.

And on a small-agency basis on a small budget, well it was almost impossible to absorb it. And yet there was the sort of standardized approach that was taken to agencies, across the board.

Now I think there's an analogy here for us to learn by, as you are dealing with some of these smaller, and you said less sophisticated groups out here, that we don't want to set up a system that might work for the networks, but not work for the small operation that we have in Portland, Oreg.

Mr. CARDWELL. That's why I used the term "model." Many of the stations have an operation of 5 to 10 people. It wouldn't make any sense, in terms of their own management capacity, to hire a full-time accountant, for example, or to operate an elaborate accounting system.

Let's illustrate the point. We assume that the accounting principles will require accrual reporting, but a small operation that keeps its records on a cash basis could, bring in an outside accountant once a year to make a conversion. This is the kind of accounting adjustment that can be done quite easily, so we are sensitive to the point. We see different kinds of classes and plan to treat them accordingly.

Finally, we would leave to the local station the decision as to whether or not to adopt the model systems. None of this would be imposed.

Mr. FLEMING. It's true that the act itself says that it shall take into account different styles and different types of stations. Having sat on the other side of this one, too, I know that a further difficulty is that there are often State accounting requirements which are different from the Federal accounting requirements.

And then you may be caught in between, because you are asked by one jurisdiction to do it one way, and another jurisdiction to do it another way. So that will be a contradiction, I'm sure, in some cases.

Senator HATFIELD. I'd like to spend the rest of the day with you gentlemen and learn more about this whole operation, because it's all rather new to me, and yet we are under some time constrictions, but I want to thank you.

Mr. FLEMING. We appreciate it very much. You have been very kind to us.

Senator HATFIELD. Would you please return all the transcripts and questions for the record that we offer you in 5 working days. Is that useful?

Mr. CARDWELL. Yes, that would be fine.

Senator HATFIELD. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

BUDGET REQUEST FOR FY 1982

Question: The Administration request for FY 82 is $172 million and the '78 Act authorizes $200 million. Can CPB meet its new responsibilities in FY '82 with $172 million?

Answer: Given the impact of inflation and the fact that the satellite system, with its added channels, automatically increases the need for additional program services, the impact of the President's budget on programming would be no-growth for 1982. If the total authorized ceiling of $200 million were appropriated, the Corporation would allocate $9.5 million more for programming than at the President's level of $172 million.

Further, CPB would be forced to limit its initiatives in the area of non-broadcast technologies and their application to public telecommunications -- an objective of the authorizing statute. For example, CPB is currently supporting experiments in the use of videodisc technology in expanding public television programming. We expect to do studies in the area of interactive television and a specific application of non-broadcast technology called TELETEXT. At the levels proposed by the President, CPB would probably have to cut back the efforts in this area or alternatively would have to reduce the research it has conducted in its efforts to improve and expand the use of the broadcast spectrum -- specifically UHF and FM. In either case, this would be a lessening of CPB commitment in an area of vital importance to the future development of public broadcasting.

In addition, CPB plays a significant role in providing technical assistance, training and other forms of capacity-building at the local level. This would have to be curtailed. There could be an impairment of the Corporation's effort to preserve technical assistance in the areas of financial management and accountability which are required in the new Act. The Act also emphasizes openness and public participation. As these types of activity are defined as administration, for purposes of the 5% ceiling in the Act, failure to provide funds at the level requested by the Corporation would force CPB to limit expenses for training, seminars, teaching aides and other forms of assistance which help the stations meet their responsibilities.

OMB DECISIONS

Question: What reasons did the Office of Management and Budget give for not agreeing with your proposed funding levels for fiscal 1981 and 1982?

Answer: It is our understanding that the Office of Management and Budget disagreed with our funding request for two reasons. First, as a general principle, OMB does not support approrpiation requests that match the full authorization. Second, CPB's appropriation levels were lowered as part of the President's overall objective of reducing federal spending.

PRESIDENT'S BUDGET FOR 1981

Question: The President's budget request for fiscal year 1981 shows a reduction of $139,000 in personnel compensation. This reflects a reduction of 15 employees from the FY 1980 level.

How was this to be achieved?

Answer: It is assumed that all of the 15 positions proposed for reduction by 1981 will be eliminated through attrition. At present, CPB has put a freeze on all hiring as a step toward the 1981 budget plan. When the appropriation is approved and the final level is known, CPB will then determine whether any further reductions in personnel are necessary in order to comply with the 5% limitation on administrative expenses in 1981.

Question: Does the President's budget propose any firings of current employees?

Answer: The President's budget does not propose any reduction in current staff, per se. This is because the President's budget only contains funds for a single payment to the Public Broadcasting Fund. Unlike traditional federal activities the President's budget for CPB is not on a line item basis and does not include personnel ceilings. Application of the appropriation rests with the Corporation through its Board of Directors. We are required by the Appropriations Committee, however, to indicate how CPB would apply the funds if the President's budget were approved.

SUPPLEMENTAL REQUEST

Question: You have requested a fiscal 1979 supplemental appropriation of $18.5 million to match increased private contributions of $46.3 million.

Why was this request not supported by the Administration?

Answer: CPB received no explanation from the Office of Management and Budget, either in writing or orally, as to why it did not support our request. We can only assume that it was refused as part of the President's objective to constrain federal spending.

Question: What portion of this increase would go to programming?

Answer: It is our intention to apply as much as possible of the supplemental to programming, consistent with the current law. CPB has identified three areas for which it would use the supplemental appropriation: support for local stations operations, programming, and application of non-broadcast technologies.

Funds for local station support would be a specific percentage of the total appropriation as required by law. In 1979, this amounts to no less than 45%. Past allocations have exceeded this amount.

Once the funds for local station support are applied, CPB will allocate most of the remainder to programming, with some funds sup-

porting activities in the area of non-broadcast technologies.

STATION SUPPORT

Question: How much of your 1979 supplemental request would go to public broadcasting stations for support of their operations?

Answer: Final determination as to the allocation of the 1979 supplemental will be made when the funding is assured. In the past, CPB has used its supplemental appropriation to take advantage of opportunities which could not have been met through the normal appropriations. For example, the only supplemental appropriation which the Corporation has received was last year's appropriation of $12.05 million. Some of those funds were used to provide support for the radio satellite interconnection system, a new means of distribution of radio programs that will substantially enhance the capacity for service of National Public Radio. Without those funds CPB and public radio would have to find alternative means to support this project.

Question: On what basis would you allocate this money?

Answer: We expect a large portion of the supplemental would go directly to the public broadcasting stations in the form of unrestricted general support grants -- community service grants. Under the Public Telecommunications Financing Act of 1978, a minimum percentage of these funds must be passed through to the stations. Based upon the already approved appropriation of $120 million, approximately 45% of the proposed supplemental would have to be passed through to the stations. (As a matter of past record, CPB has been allocating approximately 58% of its funds for community service grants for radio and television licensees.) Thus, a minimum of 45% of the supplemental would be made available to the stations. The exact amount to be allocated would have to await final approval of the supplemental.

PRIVATE CONTRIBUTIONS

Question: You state that public broadcasting supporters are still prepared to increase their contributions in anticipation of increased federal matching funds.

How does increased federal support produce increased individual donations?

Answer: It is our contention that the availability of federal matching funds serves as an incentive to increase contributions on behalf of individuals. For example, in projections of non-federal income for the period 1976 - 1980 CPB built in an amount over and above its base line estimate which it felt represented additional revenue which could be raised because of the federal match. So far, our projections have been remarkably close. They can be summarized as follows:

	Projected Non-Federal Income*	Actual Non-Federal Income*
1976	$220.0	$223.4
1977	257.5	272.4
1978	302.5	303.2
1979	350.0	346.8

*The federal appropriation is matched by non-federal income from the second preceding fiscal year. Thus, the 1976 appropriation was matched against 1974 non-federal income.

Question: Why does CPB feel that public contributions will continue to increase, particularly, in this time of "Proposition 13" and inflation?

Answer: We feel very confident that the availability of federal matching funds is at least partially responsible for public broadcasting's success in raising non-federal income.

Our projections lead us to believe that public contributions will increase even in these times of inflation and deceleration of public spending. We believe that this is partially due to the continually improving quality of programming and other public telecommunications services. The rate of increase of voluntary contributions is at least partially a measure of public acceptance of public broadcasting services. An increased commitment on the part of the federal government we believe can serve to further strengthen the commitment by the public.

FORWARD FUNDING

Question: We recognize the need to forward fund your appropriation two years in advance in order to give station managers and other broadcast personnel the security of future financial support. However, might it not make sense to fund the Corporation at something like the previous year's level and meet any additional federal matching share when, and if, sufficient private contributions are actually received?

Answer: The current advance-year funding process essentially accomplishes what is envisioned in this question. The funds that are appropriated to the Corporation two years in advance are based essentially on a projection of non-federal income yet to be received. The funds are placed in the Treasury Department. Those funds can only be drawn out in the fiscal year to which they apply based upon a certification by the Corporation as to the actual amount of non-federal income raised in the second preceding fiscal year. This means for example that if sufficient non-federal income has not been raised by public broadcasting, matching funds cannot be withdrawn from the Treasury. In essence, this acts somewhat similar to the proposal contained in this question. If for some reason, non-federal income did not increase from the preceding year then essentially the same amount of federal funds would be withdrawn from the Treasury

irrespective of the total appropriation available.

In summary, the way the mechanism works means that the risk rests completely with public broadcasting. By virtue of the fact that there is a ceiling on the appropriation, the federal government is not making an open-ended commitment, although the appropriation action does have the effect of earmarking federal funds conditional upon the later availability of the match. By virtue of the fact that funds are made available to CPB only upon certification of actual non-federal income, and only up to the ceiling, funds are only provided up to that amount and no more. Should non-federal receipts be lower than anticipated, then federal matching funds are not made available. All in all, this appears to be an adequate method for both protecting federal funds, and providing an assured and stable source of federal support for public broadcasting.

In any event, it is the position of CPB that the withholding of the federal appropriation to last year's level until the match itself is realized, would negate both the concept and the advantage of the two-year advance funding provision of the basic law. Neither CPB nor the various components of the system could plan with sufficient assurance that the federal funds would eventually become available.

PROGRAMMING

Question: Taking into account the many new responsibilities the Corporation for Public Broadcasting must operate under in the new Financing Act, where does CPB support of national programming for distribution to local stations belong on your list of priorities?

Answer: Although CPB is charged with many responsibilities, we feel that programming and its related services will be our highest priority over the next several years. The design and implementation of new program production models and the stimulation of innovative high quality program production will receive significant attention and financial support from the Corporation.

At the anticipated higher funding levels, we hope to devote an increasing share of our total funds to these endeavors looking toward the objective of one-quarter of the CPB budget for programming. In anticipation of those higher appropriation levels, CPB is now moving ahead in the development of new and more effective program funding mechanisms. One of the key components will be the use of peer panels. We anticipate that these panels will bring together the best expertise available to assist the Corporation in evaluating program proposals.

IMPLEMENTATION OF NEW LEGISLATION

Question: You state in your testimony that the 1978 Public Broadcasting Act calls for improved management and improved accountability in resource application, public participation and equal opportunity in the public broadcasting system.

First, would you explain what you mean by "resource application" and "public participation"; and, secondly, how the Corporation plans to achieve these goals?

Answer: By "resource application", I mean the process by which public broadcasting entities allocate their resources, expense them and document these financial transactions. Specifically, I am referring to provisions in the Public Telecommunications Financing Act of 1976 which prescribe that stations and others maintain records open for public examination and undergo annual financial audits by the accounting profession. The law also requires that CPB, in consultation with the General Accounting Office and others, develop accounting principles to be applied uniformly by all public telecommunications entities receiving CPB assistance.

By public participation, I am referring to a process which allows for access to, and participation in, all facets of public broadcasting activities by the public-at-large. This involves the financial accountability practices mentioned above, the use of advisory boards to the stations' governing boards to provide community based guidance in developing station policies and practices, and open board meetings with public announcements and invitations to the general public to participate. CPB has already completed a series of three seminars with financial managers for financial management and accountability in the 1978 Act. At present, CPB is preparing to move forward under contract with two projects which relate directly to the 1978 Act in this area. The first is the determination of standards for placing a value on the use of volunteer services as a component of non-federal financial support. The second is the development of accounting principles to be used uniformly throughout the system. These accounting principles are to be reviewed and approved by the General Accounting Office before they are issued.

In addition, CPB intends to move forward with several other actions in this area, some of which will be at its own initiative and some of which it will serve as the benefactor. These include:

1. Design and development of model accounting systems.
2. Development of CPB audit standards and guides.
3. Creation of a national organization of public broadcasting financial managers.
4. Creation of various training and personnel development seminars.

It is expected that most of these activities will be undertaken and completed in 1979 and 1980, with most of the associated cost expensed in those two years.

In the areas of public participation outlined above, the Corporation is in the process of developing requirements that set out minimal criteria which each station must meet to continue to receive CPB funds.

REORGANIZATION

Question: Mr. Fleming, I understand that you have recommended, and the CPB Board of Directors has recently approved, a reorganization of CPB.

Can you tell us why, in response to what needs and pressures, you have reorganized CPB? In short, for what purposes have you reorganized?

Answer: The reorganization which I proposed has two principal objectives: first, to assign authority and responsibility for CPB activities in a concise and economical manner; and secondly, to have the CPB organization reflect its primary purposes.

Question: What specifically do you wish the CPB reorganization to accomplish?

Answer: The new CPB structure reduces the number of CPB Vice-Presidencies from six to three plus a General Counsel. It provides for a Vice President for Telecommunications (which includes programming), a Vice President for Planning and Research, and a Vice President for Management and Administration. Except for two Special Assistants for Legislative Affairs and Human Resources and the General Counsel, who will report directly to the President, all CPB departments will report to one of these three Vice Presidents. An Executive Council, made up of the three Vice Presidents, the General Counsel and the two Special Assistants, will serve as a policy review and coordinating body for the organization. It is believed that this structure will provide cleaner lines of responsibility, more economical administration and a more streamlined decision-making process.

Question: What was the cost of effecting this reorganization?

Answer: There are no direct costs attributable to the reorganization -- either immediate or long-term. There will, however, be savings as a result of fewer officer positions. The positions of Executive Vice President, Vice President for Public Affairs and Vice President for Human Resources Development will be eliminated. New positions of EEO Advisor and Vice President, Planning and Research will be established. The result will be a net savings of $80,000 - $100,000 in salaries, benefits and support costs.

DUPLICATION AMONG MEMBER STATIONS

Question: You state that the management and administration monies do not provide for activities CPB may wish to support as a result of absorbing an activity deemed duplicative among the public broadcasting organizations. To reverse this line of thought somewhat, would CPB be willing to reduce its activities by divesting itself of services provided by other public broadcasting groups? If so, which activities would most likely be affected?

Answer: It is certainly possible that there are activities at the Corporation which may in fact be duplicating services provided

by other public broadcasting groups and vice versa. This has been an issue for a long time, particularly as between PBS and CPB. In the brief time since I became President of CPB, discussions have been initiated between the two organizations concerning this question and an agreement has been reached to examine ways in which common services and activities might be consolidated or ways in which one group might perform a service on behalf of the other. This is just now getting underway and it is too early to predict an outcome. But, in direct answer to the question, this development represents an affirmative interest on the part of CPB to in discussing with PBS and NPR a mutual reallocation of duties.

FUTURE PLANS

Question: While we are aware that you haven't been with the Corporation for Public Broadcasting a very long time, would you share with us your views on the future, say the next five years, in public telecommunications?

What do you see as the major goals and what obstacles do you foresee in achieving them?

Answer: The future for public broadcasting in public telecommunications lies with the recognition that the new technologies (which are now available or are in various stages just prior to being available) can contribute in a significant way to serving the public with more diversity and better programs. These technologies which I have mentioned before include cable television, satellites, instructional television fixed service, multipoint distribution services, video cassettes, video discs, teletext and viewdata and for radio, subsidiary communications authorizations and cable radio.

These technologies and others which may come along can liberate the viewer and the public broadcaster from the tyranny of the frequency spectrum. Opening up new avenues to the home eases the job which public broadcasting seeks to perform. Service to diverse and minority audiences is only possible through the use of many separate channels in a system where the cost of reaching viewers is affordable. In today's television this is simply not the case.

As cable proliferates and new systems are constructed, channels will be available in communities and cities where before there were none. Having many channels available will allow public broadcasters to cater to the diverse needs of all their viewers. Whether cable grows significantly in the next five years to become a major foce in reweaving the frequency spectrum is unpredictable at this point, but one can be relatively sure that by 1990 additional channels will be opened up providing new opportunities to reach the home for public and commercial broadcasters alike.

We feel safe predicting that our efforts in the video disc arena will prove useful within five years as the market for that new technology opens up and provides the viewer with a flexibility not now possible. Public broadcasting programs should not be available solely on over-the-air channels. Viewers should have the

flexibility to watch these programs when and where they wish to do so. The new discs make that a possiblity and efforts to make the disc a useful communications tool for instruction and entertainment will enable public broadcasters to take full advantage of this new capability and provide a fuller service to the user. Greater utilization of fixed microwave (ITFS and MDS) will take place in the next five years as additional services to schools and industry move to these channels, and possible to the home.

Greater use of the over-the-air service to provide text opportunities will be possible with the introduction of several teletext demonstrations, especially one that CPB and NTIA expect to sponsor in Washington, D.C. This use of the medium to provide a new class of service to the public will usher in a new era of public broadcasting's commitment to becoming the public telecommunications center for its city.

In the areas of mission and basic structure of the system, it seems likely that changes will occur -- particularly in light of the Carnegie II report and the proposed re-write of the basic federal communications act. For example, some organizational changes seem likely in the areas of system-wide planning and programming. Greater usage of independent producers will almost certainly occur. At the same time, many current priorities such as more and better program services will, in all likelihood, continue throughout the next five years. Similarly, the goals of better coverage of remote and underserved areas will be carried on into this period.

NON-BROADCAST TECHNOLOGIES

Question: You also refer in your testimony to increased support for the use of non-broadcast technologi-s for the distribution of public telecommunications services.

What do you perceive as CPB's role in this area?

Answer: The key to public broadcasting's ability to serve the public in the future is tied to the availability of additional channels to the home. These channels might take many different forms in addition to second over-the-air channels. Some examples are ITFS, cable, MDS, video cassettes and video discs. CPB can assist stations in understanding these technologies and becoming involved in some of them. In some cases with CPB's support, it may be possible to help shape the technology so as to better meet public broadcasting's ability to utilize these technologies. In all cases, CPB can identify those technologies and alert stations to the potential, clear regulatory hurdles, and support station participation and study.

Question: What plans do you have to implement such a program?

Answer: We are already heavily involved in such efforts. The responsibility for this area rests principally with the Engineering Research Department. The departments of TV, Radio and Education are also involved in this effort.

Question: What technologies and services will such a program encompass and at what price?

Answer: CPB supported experiments and demonstrations are underway on cable systems in Toledo, Ohio; Los Angeles, California; Spokane, Washington, Bowling Green, Ohio; Atlanta, Georgia; with the agency for Instructional Television; the Nebraska ETV Network; the Southern Eudcational Communications Association; and station WETA-TV in Washington, D.C. Eventually, at least 10% of the system should be involved in such experiments as a means for letting all stations know what can be done with the non-broadcast technologies, what the opportunities are, and what the problems are. Under present budget restrictions, we are able to devote only a small part of our budget to this effort, although we are attempting to obtain outside support to augment our funds. The 1981 and 1982 budget estimates call for approximately $900,000 to be assigned to this area each year.

AFFIRMATIVE ACTION

Question: This Committee has regularly urged the various public television organizations to adopt a more aggressive role in affirmative action.

What specific steps have you taken in the past year to encourage more participation by minorities and women in public television?

Answer: In FY 1978 CPB added $640,000 to the minority and women's training grant programs, nearly doubling the resources available for these activities. These grant programs provide up to 50% of all training, salaries and benefits of individuals at stations for training periods which last from one to two years. Such assistance enables stations with limited financial resources to take affirmative action to improve the role and status of women and minorities within public broadcasting. At the CPB requested appropriation level of $200 million, funds allocated to these programs will increase to $2 million in FY 1982.

In the area of outreach CPB has sought to make more minorities aware of opportunities in public broadcasting by extensive participation in communications seminars held on black college campuses. Four such seminars were held in calendar 1978.

Through the People and Careers in Telecommunications job placement services more than 150 minority men and women have been counselled and their employment qualifications and availability shared throughout the industry.

In addition:

- CPB has sponsored and staffed a special committee of radio and television managers and lay board members (Managers' Committee on EEO in Public Broadcasting). This Committee has worked on developing new strategies and mechanisms to improve the EEO performance at the station level.

- CPB staff made a comprehensive presentation on EEO to all television station managers in attendance on the fal round robin meetings.

- CPB's Minority Affairs Office has provided on-site workshops and training for local managers and their staff on specific subjects, i.e., selection, hiring standards, and the interview format. These are the areas where most alleged discrimination occurs.

- CPB has given grants to the Native American Program Consortia totalling $132,000 and will provide approximately $92,000 to the Latino Program Consortia. These consortia have, as a part of their mission, the recruitment of new people to the field.

- CPB funded an industry-wide study on the status of minorities in public broadcasting. The Board reviewed the report in November. The CPB, PBS, and NPR staffs are now developing implementation strategies and other responses to the 70 recommendations in the report.

- CPB's Offices of Women's Activities and Minority Affairs have held several workshops for minority and women producers, directors and writers. In addition, Women's Activities has held several regional workshops for skills building for women.

Question: What have been the results of this effort?

Answer: While hard statistics showing results are difficult to come by and are often inadequate, it is clear that the major result of all of the above efforts has been to demonstrate a growing level of commitment on behalf of CPB to the goals and objectives of affirmative action. As a result, the commitment by the stations has also increased by their willingness to participate in our grants programs and committing their own resources.

CARNEGIE COMMISSION

Question: The Carnegie Commission on the Future of Public Broadcasting Feels that public radio and TV broadcasting ought to be funded at $1.2 billion by 1985. This is twice as much as the $600 million level you are currently requesting for fiscal 1982. Part of the massive increase in federal funding that this would entail would be derived from a licensing fee levied on all users of the public airwaves.

Would you discuss with us your personal and institutional reaction to the Carnegie II report?

Answer: The $600 million referred to in the question is the total of non-federal financial support projected and the $200 million appropriation requested for 1982.

The projection of the Carnegie Commission for funding at

$1.2 billion is similarly a total of federal and non-federal funding based upon a projection of need as well as a projection of funds that can be derived from other than the federal government.

At this time, CPB is not sufficiently familiar with how the Commission calculated these funding levels to offer a full judgement on the matter. Since the report has just been issued, we have had no opportunity to review it and discuss it with our own Board. In short, I would like to reserve judgement on this particular issue pending further study.

CARNEGIE COMMISSION REPORT

Question: As you know, the Carnegie Commission last week issued its recommendations on the future of public broadcasting. While the report describes public broadcasting as a "national treasure", it is somewhat critical of the Corporation for Public Broadcasting and, in fact, suggests a substantial restructuring of the system's national organizations.

What are your reactions to the Commission's report and what, if any, steps will you take to address the Commission's concerns about the Corporation's activities?

Answer: The Carnegie Commission report observes that despite its successes and strong potential, public broadcasting has some flaws.

Fortunately, we now have an unparalleled opportunity to make changes and to deal with problems of the system. Both the Carnegie report and the Congressional re-write bill are available. CPB, PBS and NPR have the opportunity to pool their experience in making their own recommendations for correcting the flaws of which the Carnegie report speaks. It is my hope and expectation that we will capitalize on that opportunity.

We congratulate Chairman McGill and his colleagues for their careful work, and we are sure that it will contribute greatly to the future of public radio and television. We look forward to discussing the report in detail with them.

CORPORATION FOR PUBLIC BROADCASTING

Question: One of your member stations' fund-raising letters has been brought to our attention.

In the promotional letter for WETA, the local Washington metropolitan public broadcasting station, there are a couple of quotes which are misleading.

The letter, which apparently was sent to every household in the metropolitan area, states that:

"Our programs are yours to enjoy without any cost to you whatsoever." "We receive no annual appropriation from any federal... agency of any significance."

Are these statements typical of your member stations' fund-raising approaches across the country?

Answer: With respect to the excerpts of the letter referred to in the question, neither I nor my staff have seen the full letter. It is clear, however, that the statments presented could be misleading since these programs do come at a cost to the public, i.e., the general taxpayer. While CPB is not a federal agency, its funds are derived from general taxpayer receipts. WETA receives significant unrestricted and program grants from CPB.

Technically, however, it is true that WETA receives no such federal funds "of any significance". In 1978, WETA received $200,000 from federal agencies out of a total income of $7.1 million -- or 2.8%.

Incidentally, WETA is not a member station of CPB. The membership organization to which the stations belong is PBS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

STATEMENT OF CHARLES BENTON, CHAIRMAN

ACCOMPANIED BY:

ALPHONSE F. TREZZA, EXECUTIVE DIRECTOR, NCLIS
DOUGLAS S. PRICE, DEPUTY DIRECTOR, NCLIS
MARY ALICE HEDGE RESZETAR, ASSOCIATE DIRECTOR NCLIS
MARILYN GELL, DIRECTOR, WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES
JERRY MANOLATOS, DEPUTY DIRECTOR, WHCLIS
VERA HIRSCHBERG, INFORMATION OFFICER, WHCLIS

Senator HATFIELD. We will now hear from Mr. Charles Benton, Chairman of the National Commission on Libraries and Information Science. The Library Commission budget request for 1980 is $668,000, an increase of $8,000 over the comparable 1979 level.

INTRODUCTION OF COLLEAGUES

Mr. Benton, for the record would you please introduce again your colleagues and then you will have—we will put your entire statement in the record, and then, if you will, proceed to summarize it.

Mr. BENTON. Well, this is: Alphonse Trezza, who is our Executive Director of the Commission. He has been with us since 1974. Also, here are Douglas Price, our Deputy Director; Mary Alice Hedge Reszetar, our Associate Director; and Marilyn Gell, who is Director of the White House Conference that is coming up at the end of October of this year; and Jerry Manolatos, our Deputy Director of the White House Conference staff; and Vera Hirschberg—head of Public Information. This is our team.

My name is Charles Benton. I am the Chairman of the National Commission on Libraries and Information Science. I succeeded Dr. Frederick Burkhart, who resigned last year because he felt that the press of other business would prevent him from devoting the time and attention needed to serve effectively as Chairman of the National Commission and as chairman of the White House Conference on Library and Information Services which will be held November 15 to 19 of this year.

APPROPRIATION REQUEST

The National Commission request for fiscal year 1980 is $668,000. This will provide for studies, surveys and other related activities, as well as for the cost of the Commission meetings and task force and study group meetings, necessary travel, and for a permanent staff of nine people.

Here are some copies of our recent studies, Senator, which you might just want to look through quickly.

The increase over our fiscal 1979 appropriation amounts to only $8,000 or 1.2 percent. This request represents an effective reduction, when inflation is taken into account, of more than 5 percent below our fiscal year 1979 budget.

Rather than spend the time here reading or summarizing our statement, which has already been submitted, I will, with your permission, simply make a few general comments about the importance of the Commission and the White House Conference, and then answer any questions about my statement and about our budget justification.

I want to say that I'm honored to have been appointed by President Carter as Chairman of the Commission. I am tremendously excited to be joining them at a time when they are preparing for the White House Conference. I now present you with some background information about the White House Conference that we have prepared, and look particularly at this last document, which summarizes in essence what the White House Conference is all about and does it, I think, very well.

I look upon the White House Conference as a once-in-a-lifetime opportunity for the Commission, the library and information communities and the public at large to generate the interest in and attention to improving library and information services to the level that these critical elements in our economy and society deserve.

Although the White House Conference is only a one-time short-duration component of the National Commission's ongoing efforts, it is a very important component and the Commissioners are giving it a great deal of attention.

According to Marc Porat in a recent study, some 50 percent of our gross national product is devoted to information activities. If this is the case, we are rapidly becoming, if we have not already become, what Daniel Bell characterized as the information society in his book of that title.

Therefore, it is imperative that we develop both the understanding of information and the means for using it more effectively. Roger Bacon's observation that knowledge is power was never more true than it is today. If we are to maintain our democratic society, we must insure that the knowledge resources of our Nation are available to all of its citizens.

INFORMATION LEGISLATION

In fact, Senator, in the 95th Congress 70 public laws were passed that contained specific provisions dealing with some aspects of information policy. Here is a committee print that was compiled by the Policy Group on Information and Computers of the Committee on House Administration that spells out these 70 laws passed in the 95th Congress. And there were only 1,000 copies printed.

Senator HATFIELD. Do we get that?

Mr. BENTON. Yes. [Laughter.]

They have to get the information out about these 70 laws.

Senator HATFIELD. That's the House of Representatives—— [Laughter.]

Mr. BENTON. The work of our Commission is key in supporting this mandate from Congress. That's really what we are about. I can't emphasize too strongly the importance of the National Commission and the White House Conference to our Nation's future ability to effectively utilize the vast knowledge resources of the Nation to improve the quality of life for its citizens.

WHITE HOUSE CONFERENCE

The White House Conference will bring together citizens from every walk of life to discuss and evaluate the issues which arise from the 58 State and territory preconferences and from the national theme conferences. By the way, these State and territory conferences are now about 65 percent finished. We still have another 30 to 35 percent to go. And there is a lot of exciting input from these, over 1,500 recommendations which we are now in the process of analyzing.

From these discussions will come actions which will provide guidance for the Commission, the Congress, the President, the executive branch and all concerned persons and institutions, with recommendations for improved library and information services for the Nation.

Since two-thirds of the participants will be persons who are not library or information professionals, but users, administrators, scholars, businesspeople, housewives, et cetera, we expect a real grassroots expression of needs and a realistic approach to satisfying these needs. And our conference will focus upon major issues of basic needs of the public and will try to transcend the annual meetings of the American Library Association, which are already professional meetings, and to address these broader public concerns.

With the White House Conference report in hand, the Commission will have its work cut out for it during the 1980's and beyond in updating its national program document to reflect the conference's recommendations and implementing the results.

COMMISSION'S CONTINUING ROLE

I want to emphasize here the importance of the Commission's continuing as an independent agency to provide focus for this implementation. Without such a focus at the Federal level, there would be little hope of continued progress toward implementation, and it is doubtful more than a few of the recommendations would be followed through to full implementation.

Other agencies which might be expected to act have their own charges and projects, which naturally would take priority in their view. The Commission, on the other hand, has no other purpose than to move forward toward our ideal, which I will quote from our program document.

This program document, incidentally, was published in 1975 and is the result of hearings all around the country. So in a sense that was our plan for the seventies. And the White House Conference gives us the opportunity to revise this plan and, in effect, out of its report give us our plan for the eighties.

Our ideal, as quoted from this earlier document is:

To eventually provide every individual in the United States with equal opportunity of access to that part of the total information resource which will satisfy the individual's educational, working, cultural and leisure time needs and interests, regardless of the individual's location, social or physical condition or level of intellectual achievement.

LIBRARIES AND LITERACY

On this matter, level of intellectual achievement, by the way, we had a planning conference yesterday in the area of literacy. One of the themes of this White House Conference, we are almost certain as we sift through all the potentials, will be on libraries and literacy and what the library community can do to help address this major and increasing problem of literacy, which is sort of ironic in our society. This I assure you we will continue to do with force and vigor.

And I also want to assure you that during my term as chairman I will personally devote whatever effort it takes to insure that we have a successful White House Conference and that implementation is pursued with enthusiastic, realistic energy.

NEW COMMISSIONER APPOINTMENTS

There is one final point here. The Commission has been somewhat hampered by the fact that it hasn't been up to full membership until very recently, and, in fact, here is a press release about the President's nomination of our last 3 members that completes and now give us our full complement of 15 Commissioners. This mentions Bessie Moore, who has been an outstanding vice chairman of the Commission, from Arkansas, and is a beloved grassroots mother figure for us at the Commission and for the entire field, and I am very proud to continue the association with her as vice chairman.

Philip Sprague, former congressional candidate from Indiana; and I am sure you either know or know of Francis Keppel, former commissioner of education and former chief executive officer of the General Learning Corp. I think he will bring the kind of leadership that we need to have to help with the implementation of the results from the White House Conference.

Thank you, Mr. Chairman. Are there any questions?

LIBRARY PROGRAM APPROPRIATIONS

Senator HATFIELD. Thank you, Mr. Chairman. That was a very succinct and eloquent presentation.

I can't help but comment on a rather obvious irony. I understand the White House Conference called for this November—and as you described both in its goals and objectives—with a cost of about $3½ million, and yet in the President's budget for this year I see where he has reduced library resources by $32.6 million. This is at a time we are having a White House Conference to try to develop a greater understanding of our need for library resources and as I believe—correct me if I am wrong—at a time when we consider we have about a 160 million volume deficit in our academic libraries today. Is that a correct figure?

Mr. BENTON. Yes.

Senator HATFIELD. I only observe that to me that is a rather interesting irony. You may wish to comment—and you don't have to comment on that.

Mr. BENTON. I would be delighted to comment. [Laughter.]

Senator HATFIELD. And our mutual love for libraries and books, you know, this is all purely partisanship that may be implied in that comment.

Mr. BENTON. Well, sir, that's a wonderful opening.

This is interesting. I received a Washington newsletter from the American Library Association, as a matter of fact, just a few days ago, and the Higher Education Act support of libraries is almost totally phased out except for research libraries.

As you look at the specific categories here, there is a lot missing, and perhaps—in the wisdom of Congress because the Congress doesn't always do what the President says—the Congress will restore some of these cuts.

But perhaps the key issue here and the key opportunity for the White House Conference is the redefinition of need and perhaps the refocusing of some of the legislative support in new ways that will address the new needs of the 1980's, in ways that the old legislation has perhaps been adequate but could be improved. This is the opportunity, really.

So, out of this systematic exercise of, in effect, research and development involving the public through the White House Conference, we can perhaps help to come up with some new ideas that will improve all of this, and maybe the President will be more enthusiastic next year. We hope so.

Senator HATFIELD. I hope so.

LIBRARY ACCESS AND UTILIZATION

Mr. Benton, two things that have concerned me over the years in my association with libraries: One, the development of retrieval systems to make them more usable and more functional—and I see some of this happening, but not necessarily on any kind of national basis but rather isolated. I think of the Oral Roberts University library retrieval program, which I think is one of the most sophisticated I have ever seen. Then I see my alma mater, Stanford, still constructs memorials to architects, primarily, as I look at it, in terms of retrieval, blocking students from stacks so to speak and I am just curious as to whether in this stack—and I haven't had a chance to peruse them—of research projects if you are addressing yourself to that particular basic problem.

And may I state the second problem that I have observed in library science. I have a hometown of Salem, Oreg., which is about 80,000 population, now has five high schools, class A high schools, with libraries in each one of them. We have about five junior highs with libraries in each one of them, and we have fairly good city library, fairly good. We have a university in the same community, a private university, with 120,000 volumes maybe.

Now, I see the broad community again excluded from that resource, and I see those schooldoors closed more days per year than they are open for educational purposes, and I have often wondered why we didn't develop a broader utilization of that particular

resource for the broader community. And I have heard all of the answers, usually from the librarians who don't see that as other than additional paperwork, additional accounting systems, and so forth, which I understand that such a thing would have to be funded.

But what do you have to comment on that?

Mr. BENTON. I would like to make two brief comments, and then perhaps we ought to give Mr. Trezza an opportunity to respond, also.

NATIONWIDE NETWORK

But two quick comments about this. First, on the access issue, one of the central themes of the National Commission in the past several years has been this notion of building the nationwide network. And if you will notice in these three publications, the notion of building the library network and thereby more effectively sharing resources through this network at various levels, at the State level, at the local community level, at the national level, has been one of the central problems we have been working on. And Mr. Trezza, I am sure, will have some things he wants to say about this.

COMMUNITY LIBRARY COOPERATION

The other point, the notion of interinstitutional cooperation within the community, we feel very strongly about it—and this is something the American Library Association is working on very hard—that we must do what we can to break down the barriers within the profession, so that, for example, there can be a much freer flow and sharing of programs, people, resources between, for example, school libraries and public libraries. There is a great opportunity for interinstitutional cooperation between school libraries and public libraries.

For example, in the literacy issue we were talking about earlier and the whole problem of remedial reading and carrying it through from youngster to adult, this is obviously an area where school and public libraries can cooperate and do great things, so that the interinstitutional cooperation and the more effective utilization of current resources is something that is most surely going to be a most important point of the White House Conference.

Al, I know you want to add on to that.

Mr. TREZZA. I want to say that the Commission's main program since its inception in 1970 has been to develop a nationwide network of library and information services. To do so, however at three levels—local, State, and Federal—what we have been doing in the last 4 or 5 years is working very closely with the States to make sure that within the State they have a coordinated network of resource sharing.

Take Oregon, for example. They have just recently passed a law almost mandating—not quite—cooperation between academic, schools, public, and special libraries. And if we are going to do this job, we have to try to work with the various communities to try to get them to see that it works.

SCHOOL LIBRARIES

For example, the school libraries task force, which is our latest report, studied the problems. The problems are, first of all, the individuals who run the libraries who feel already harassed with low authorization of funds.

Then, in the case of schools, the principal and the school board, superintendents who are very jealous of their authority, don't want to share anything, but they want to get materials from everybody else.

Then, of course, we've got the local population, which is interested in terms of taxes.

We are working with the school people now. We have developed a program and we are going to try to implement some of the ways of breaking down the barriers. For example, the academic libraries are afraid of school libraries because of sheer numbers, even though the percentage of students at a school level who would use an academic institution's resources is 5 or 10 percent at the most. So, we are working on breaking barriers down at that level.

The public and school library cooperation problem has been going on for 100 years, and, again, the old problem of whose resources are they. They're all taxpayers, after all. But how do you do it so that neither partner in this cooperative effort suffers appreciably but that all gain? And that is the key.

FEDERAL ROLE

And part of the Federal role, the Federal programs which you mentioned earlier, are exactly that—to give the incentive, to give the kind of money that is necessary to start the experiments to do this. LSCA, for example, has been eminently successful in producing tremendous results. I was a State librarian in Illinois, and we did an amazing amount of State work with Federal funds. I parlayed something like a million dollars a year of Federal funds for 2 years into a now $12 million budget of State money alone for State libraries. That's true in New York, that's true to varying degrees in 12 or 15 States. Federal money is one of the best incentive programs there ever has been.

Senator HATFIELD. It's a multiplier.

Mr. TREZZA. Right now the Office of Education has a major study, an evaluation of title I of LSCA. That study will take a couple of years, but that will help determine the kind of legislation that agency needs .

As Mr. Benton points out, the White House Conference is aimed at trying to identify some of the major issues and how we should handle them in a better way in the 1980's. Our Commission is an independent agency which advises both the Congress and the President. A few months ago we gave our advice to the administration on the various library programs. We input what we thought should be the appropriations levels and we would be glad to do so for this committee as well.

In all of this, then, we are definitely moving toward coordination. There are technical problems—new technology, for example. You mentioned Stanford. Stanford has a system called BALLOTS. There is another system called OCLC and still another called

Washington Library Network. All of these were designed to develop automated bibliographic identification. In the future if you want something from your local library and they don't have it they can access the nationwide network with a computer terminal anywhere in the country and give you the answer. And this study "The Information Economy" talks about the standards, this study we did with the Library of Congress is a feasibility study on authority files.

How do you determine what is the right entry, what is the correct author's name, the correct publishers or publication's title. It's a major project, and we're cooperating with the Library of Congress. This is one of the studies they have done with our support.

INFORMATION POLICY

So, the Commission, then, is well aware of a variety of these problems. We are working, for example, with the National Telecommunications and Information Administration on the whole idea of a national information policy. We worked with the National Technical Information Service on the distribution of the information through journal articles.

There are a great number of opportunities, and our role is to try to coordinate to the best of our ability what is going on and trying to bring people together constantly to deal with the problems. We use the task force method.

Mr. TREZZA. Another major meeting is on the 19th and 20th of March which is on a national periodicals center. There is a tremendous push for setting up in some central location a center which has the 50,000 or 60,000 heavily used journals published throughout the world. When libraries who try to locate a journal first at the local level can't find what they want within their State, they can go to this central point—this is being done very successfully in Great Britain, for example. Our meeting is meant on the 19th and 20th to bring together the major national library and information science organizations and try to get them to come to some consensus. There is a lot of agitation to introduce legislation during this session of Congress so we can move forward. Our hope is that we can get some consensus so that when we come to the Congress we come as one and not with two or three conflicting ideas. These then are some examples of our activities.

Senator HATFIELD. Again, Mr. Benton, our staff has prepared a couple of questions and others that we would like to submit to you perhaps at a later time, for you to respond to.

Mr. BENTON. We would be glad to answer any questions.

Senator HATFIELD. To be answered within a 5-day period.

[The questions and answers follow:]

BUDGET REQUEST FOR FISCAL YEAR 1981

Question. What would you expect your budget request to be next year?

Answer. It is difficult to be precise but we anticipate a budget request of approximately $735,000.

Question. Is that what you meant when you said in your justification that, and I quote, "The Commission's extensive ongoing efforts can be expected to undergo a significant modification as a result of the White House Conference"?

Answer. Yes. Our activities will increase as we assume the responsibility for working toward the implementation of the highest priority recommendations adopted by the delegates of the White House Conference on Library and Information Services.

PERMANENT NEED FOR NATIONAL COMMISSION

Senator HATFIELD. Do you feel that the functions which are served by the Library Commission should be phased out after the White House Conference on Libraries and Information Services has concluded?

Mr. BENTON. I am simply delighted you asked that question because that question has come up before. I read, in preparing for this session, the testimony from last year, and Senator Brooke raised that very question in this room last year, and I am very glad you are now asking that question.

The basic role of our Commission is one of research and planning, and a coordinating function for libraries and information science. In view of this explosion of information that is upon us, and in view of the technological revolution of all of the means of dealing with this information, far from the Commission not being needed in the 1980's, there is a much greater need for the Commission.

The whole idea of the White House Conference is, in effect, to try in an open and frank way to take a fresh look at what the public needs are for libraries and information services, and then out of this will come our report to the President, which we must submit within 120 days after the close of the White House Conference. Under our legislation the President is required to submit his report and recommendations to the Congress within 90 days after he receives our report. That, in effect, becomes our program document, if you will, for the 1980's.

It is out of the White House Conference that we will redefine our goals and mission, and then that becomes, for at least the first 5 years in the 1980's, our new mandate and program.

Senator HATFIELD. I hear you saying, then, if I am correct, that the White House Conference, once it concludes its findings and publishes its findings, that it needs some vehicle to implement and carry out those findings, and that you visualize your Commission as that vehicle?

Mr. BENTON. Absolutely. And we will do so with dedication and enthusiasm.

Senator HATFIELD. Are there any other agencies that could assume that role that are in place now, do you feel?

Mr. BENTON. There is no other agency that has as its charge this sort of research and planning function for both the President and the executive branch and the Congress. There are specific—the Library of Congress, of course, which has its own charge, the U.S. Office of Education has its charge, but there is no agency that really has an above-the-fray position to comment and make recommendations to both branches of Government; and, therefore, we do have a unique role and potential, and we look forward to the years ahead in carrying out that challenge.

Mr. TREZZA. I think it is interesting to note, when the Commission was first asked, after having been in existence for about 3

years or so if it would be willing to undertake responsibility for the White House Conference. It did not want it for the very reason that it might be misunderstood. It worried that it would be assumed that we only existed for the White House Conference—the Commission has an identity of its own and an existence of its own. The White House Conference is an assignment just as a White House Conference at HEW or Commerce is an assignment. We trust that in the future we will have other assignments of a one-time nature, and we would hope that this would be remembered when the time comes and not look and say, "Well, have you done that assignment? Is that all?"

Our act and legislative history is very clear. We are mandated to give advice to the Congress and the President on a continuous basis and not for any one year.

Mr. BENTON. Senator, if I may go on the offensive for a moment—taking advantage of the many opportunities you've given me this morning. I appreciate it very much.

This year we have come in with a very modest increase of only $8,000, which, in fact, is a net decrease in the face of inflation.

I am sure next year will not be as modest as our request this year as we will be coming in with the experience of the White House Conference under our belt, and we will have a lot of ideas and mandates and a redefinition of our ideas.

So we'll probably be less modest next year.

STATE OF OTHER FEDERAL FUNDS

Senator HATFIELD. Mr. Benton, it was mentioned during last year that certain States were using other Federal program funds in order to supplement their budget needs for the individual State conferences.

Do you know whether or not the situation still exists and what related Federal programs are supplementing them?

Mr. TREZZA. When we worked with the Congress, initially, for the budget for the White House Conference, the amount originally requested was $12 million. At that time it was envisioned that the full cost of the State conferences were to be borne by the Federal funds in our budget.

When Congress reduced the budget to $3½ million, it was done so with one understanding, among others: That the States themselves would have to come up with some of the funds for the State conferences. When we then started working with the States, it was clear that the States had to have a mix of funds. These include our funds, which run somewhere between 43 to 60 percent for a given State, depending on the size of the State and is formula based. The States had to come up with the balance.

The States had the opportunity of using other Federal funds if they had them, or State funds, donations, et cetera.

For example, Alabama, I think, got the funds from the State chapter of the National Endowment for Humanities.

We had a variety of sources of funds. Most States are using some LSCA title I or title III funds, provided that in their program which they annually file with the Office of Education contains a

provision which permits them to use funds for meetings which involve the citizens and librarian's. Most of them do.

The important thing is that their State conference is tied to the goals of the State plan vis-a-vis LSCA title I.

Mr. BENTON. If I may just add one final point concerning Illinois, which is my State. I attended the Illinois State preconference and it was an exhilarating experience. But the National Commission only supplied $25,000 in funds. Yet, that State conference cost $200,000, most of which was raised locally by the State.

So there is a multiplier effect of these Federal funds in generating citizen involvement at the local and State levels.

So this, it seems to me, is a prototype of how Federal funds ought to be used in this multiplier effect way.

Senator HATFIELD. Fine. Thank you very much.

Mr. BENTON. Pleasure to be here.

[The statement follows:]

Statement of Charles Benton, Chairman, National Commission on Libraries and Information Service

My name is Charles Benton, and I am the new Chairman of the National Commission on Libraries and Information Science. I succeeded Dr. Frederick Burkhardt, who resigned last year because he felt the press of other business would prevent him from devoting the time and attention needed to serve effectively as Chairman of the National Commission and the White House Conference on Library and Information Services, which will be held October 28 through November 1 of this year. I want to say that I am honored to have been appointed by the President as Chairman of the Commission, and that I am tremendously excited to be joining them at a time when they are preparing for the White House Conference.

The National Commission on Libraries and Information Science (NCLIS) requests for fiscal year 1980 an appropriation of $668,000. This will provide for studies, surveys, and other related activities as well as for the costs of Commission meetings, task force and study group meetings, necessary travel, and for a permanent staff of nine people. The increase over the fiscal year 1979 appropriation amounts to only $8,000, or 1.2%, so this request represents an effective reduction, when inflation is taken into account, of more than 5% below the fiscal year 1979 budget.

NCLIS was created in 1970 by Public Law 91-345 as a permanent, independent agency within the Executive Branch. The charge to the Commission contained in that law is to develop and recommend to the Congress and the President plans for the provision of library and information services and for the coordination of activities at the Federal, state and local levels necessary to meet the library and information needs of the nation more effectively. The Commission's first step in fulfillment of that charge was the development of a National Program Document, "Toward a National Program for Library and Information Services: Goals for Action." This document, which was formally adopted and submitted to the President and Congress in 1975, establishes the framework for implementing a National Program in terms of eight objectives, which are to: ensure that basic minimums of library and information services are satisfied; provide adequate special services to special constituencies including the unserved; strengthen existing statewide resources and systems; ensure basic and continuing education of personnel essential to the implementation of a national program; coordinate existing Federal programs of library and information services; encourage the private sector to become an active partner in the development of the national program; establish a locus of Federal responsibility charged with implementing and coordinating the national program under the policy guidance of the National Commission; and plan, develop, coordinate, and implement a nationwide network of library and information service.

Clearly, these eight objectives describe an ambitious program. They are neither narrow in scope, nor are they attainable on a short-term basis. The question has been asked, "How can this small agency talk about implementing such a program?" The question is a valid one, and I should like to answer it briefly and indicate some of the approaches we use to stretch our resources. I also want to discuss how the White House Conference fits into the work we have been doing since 1970 and will still be doing, with greatly increased momentum, long after the White House Conference is over.

The point is that the time frame for implementing the program described by the eight objectives is not one that can be measured in months, or even years; the scale is one that must be measured in decades. With such a time frame, technological, economic, social and political changes will require frequent updating and modification of plans to keep them responsive to current needs and permit advantageous use of new technology. One of the Commission's primary functions is the dual one of monitoring these changes and ensuring that they--and their probable consequences--are communicated to the Congress and the Executive Branch, as well as to the library/information community, who may need to take action. When monitoring alone does not provide sufficient detail of what has happened or is likely to happen, NCLIS may commission a study to obtain more precise and more timely information.

When the issues or viewpoints are fuzzy or when there is controversy, we may call a continuing conference of representatives of every conceivable interested group, such as the Conference on Resolution of Copyright Issues, which was jointly sponsored by the Commission and the Register of Copyrights. To develop strategy or establish priorities when the subject is well defined, we may convene a two or three day meeting of a smaller, more focused group on a one-time basis, such as the April 1975 meeting on access to resources, which examined a research report we had commissioned and recommended that priority be given to the problem of obtaining copies of journal articles. This led directly to the third type of group effort, the task force.

A task force is initiated by identifying experts from the various concerned constituencies and inviting them to participate in a series of meetings to develop specific detailed recommendations for further action. As with the other meetings of experts just mentioned, NCLIS pays only travel and per diem, but because these are task forces of the National Commission, there is sufficient prestige attached to the invitations to serve that we have had no difficulty getting "free," or, at least, unsalaried service from the best people in the field--people we could never afford at their usual rates.

In fiscal year 1980, the task forces on Public/Private Sector Relations, International Relations, and Access to Monographs will be about in mid-course. We expect to be starting a task force on improving library service to cultural minorities, and, perhaps, if resources permit and the approach is appropriate, a task force on one of the recommendations of the White House Conference. We will also have other groups, variously called advisory committees or working committees, following up on the work of earlier task forces, specifically those of Access to Periodicals, Computer-to-Computer Protocols, Bibliographid Control of Nonprint Media, and School Library/Media Centers.

Another favored method of operation is the use of interagency transfers of funds to acquire the expertise of another Government agency. During fiscal year 1980, we will certainly have such an arrangement with the Library of Congress for continuation of the study of authority files for the national network, and we will be working with the Office of Libraries and Learning Resources of the Office of Education on the management seminars for state library agency personnel. Occasionally, when it is appropriate, we will let research contracts via the Request for Proposal route. The recently completed study of Library Photocopying is an example.

With the White House Conference on Library and Information Services occurring almost at the beginning of the fiscal year, October 28th through November 1st, to be precise, the Commission will have most of

the fiscal year to evaluate the results of the Conference and begin integrating these results into its program. I can't emphasize too strongly the importance of NCLIS and the White House Conference to our future ability to effectively utilize the vast knowledge resources of the nation to improve the quality of life for its citizens. The White House Conference will bring together citizens from every walk of life to discuss and evaluate the issues which are arising from the 58 state and territorial pre-conferences, from national theme conferences, such as the Conference on Libraries and Literacy which will be held in April, and from statements and publications produced by concerned organizations and associations as input to the Conference. From these discussions will come recommendations which will provide guidance for the Commission, the Congress, the President, the Executive Branch and all concerned persons and institutions in the quest for improved library and information services for the nation. Since two-thirds of the participants will be persons who are not library/information professionals but users--administrators, scholars, business people, students, housewives, etc.--we expect a real grassroots expression of needs and realistic approaches to satisfying those needs.

I want to assure you that during my term as Chairman, I, personally, will devote whatever effort it takes to ensure that we have a successful White House Conference and that implementation is pursued with enthusiastic, but realistic, energy.

With the White House Conference report in hand, the Commission will have its work cut out for it during the 1980's and beyond in updating its national program document to reflect the Conference recommendations and implementing the results. I want to emphasize here the importance of NCLIS as a continuing, independent agency to provide focus for this implementation. Without such a focus at the Federal level, there would be little hope of continued progress toward implementation, and it is doubtful that more than a few of the recommendations would be followed through to full implementation. Other agencies which might be expected to act have their own charges and projects, which, naturally, will take priority in their view. The Commission, on the other hand, has no other purpose than to move toward our ideal, which I will quote from our program document,

> "To eventually provide every individual in the United States with equal opportunity of access to that part of the total information resource which will satisfy the individual's educational, working, cultural and leisure-time needs and interests, regardless of the individual's location, social or physical condition or level of intellectual achievement."

In working toward this ideal, we will continue our activities of promoting the dissemination of information, monitoring technological developments, keeping abreast of legislation in process which impacts library and information services, cooperating, coordinating and communicating with other Federal agencies, as well as professional, educational, and industrial associations and institutions to ensure that they learn what we know and vice versa.

In my testimony, I have only scratched the surface of the variety of tasks and activities in which the Commission is involved. The budget justification, which we have submitted, includes additional and more detailed descriptions of some of these tasks. All of them are necessary, and there would be more, if the resources could be made available. We are pragmatists, however, and will continue to do the best we can with what is available so that we can maintain steady progress toward the ideal I quoted earlier.

We thank the Committee for its careful consideration of our budget requests in the past and hope that your action on our fiscal year 1980 budget request will be favorable.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

STATEMENT OF JEROME R. WALDIE, CHAIRMAN

ACCOMPANIED BY:

DONALD TERRY, EXECUTIVE DIRECTOR
JAMES BRODERICK, CHIEF ADMINISTRATIVE LAW JUDGE
RICHARD V. BACKLEY, COMMISSIONER
FRANK F. JESTRAB, COMMISSIONER
A. E. LAWSON, COMMISSIONER
MARIAN PEARLMAN NEASE, COMMISSIONER

BUDGET REQUEST

Senator HATFIELD. We are very happy to welcome Chairman Waldie, former Congressman Waldie, of the Federal Mine, Safety, and Health Review Commission, which was created, I think, last year. The 1980 budget request is $4,770,000, a cut of $6,000 from 1979.

As a former distinguished Member of Congress and now the Chairman of the Commission, Chairman Waldie, we are happy to have you here.

And if you will, for the record, introduce your colleagues, we will print your full statement in the record.

And you may proceed then to summarize.

[The statement follows:]

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STATEMENT OF JEROME R. WALDIE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I am accompanied today by Mr. Donald Terry, Executive Director of the Commission and Mr. James Broderick, the Commission's Chief Administrative Law Judge. In making my remarks, I am also speaking for the agency's other Commissioners, Richard V. Backley, Frank F. Jestrab, A.E. Lawson and Marian Pearlman Nease.

It is important to note that although the Federal Mine Safety and Health Review Commission came into statutory existence on March 9, 1978, the Commission Members were not sworn into office until September and October of 1978. Thus, this is the first budget presentation that has been made since the Commission was fully constituted, and please keep in mind that for all intents and purposes, our stewardship of this new agency has been for a rather limited period of time, somewhat short of five months.

When we assumed the administrative responsibilities of the Review Commission, we were confronted with a number of budgetary decisions made by those who were required to administer the Commission on an interim basis.

The Commission found considerable disagreement with the policy determinations as to the structure of the Review Commission made by the interim manager.

Essentially, the Review Commission has two primary functions, both adjudicatory in nature.

The fact-finding function and initial decision making is performed by the Administrative Law Judges assigned to the Review Commission.

The review of the ALJ decisions is exclusively the function of the Commission.

Each of these functions is separate and independent of the other. The primacy of the review function, however, is statutorily mandated.

When the Commission assumed its judicial and administrative role, it learned that the proposed allocation of the appropriated funds had reflected a structure of primacy that was contrary to our view of the intent of Congress.

The ALJ function of the Commission was assigned 71 permanent employees and 15 other-than-permanent employees.

In addition to the preponderance of personnel assigned to the ALJ function of the Commission, the interim managers determined that the projected caseload under the new Act would require the creation of up to 6 regional offices. No such need has yet arisen, and it is my view that, depending on the agency's Western caseload, establishment of but two regional offices by the end of FY'79 might be required.

The review function, on the other hand, was relegated to a minimal, almost ceremonial role. A total of ten employees, including the five Presidentially-appointed Commissioners, was assigned to the review function of the Commission.

Since this disparate resource allocation was largely only a "paper" allocation at the time the Review Commission was legally constituted, we altered the "paper" allocations to properly reflect the primacy of the review function.

To the credit of the interim administrators, no substantial implementation of this paper structure was made prior to our arrival in October.

Therefore, the Review Commission restructured the organizational chart to better reflect the importance of the review function.

We have not spent more money in this effort. We do not ask for more money in FY'80.

What we have done is to employ the personnel authorized in FY'79 in the following manner:

When the Act took effect on March 9, 1978, 12 ALJ's transferred from the Department of the Interior to the Commission. Although the FY'79 budget projected the need for as many as 30 ALJ's, we have in fact employed no additional ALJ's thus far. However, we do estimate that an additional six ALJ's should be hired by the end of FY'79. Therefore, we currently project a total of 18 ALJ's by the end of FY'79 with additional support personnel for the ALJ function of 35.

Instead of the ten employees, including the five Commissioners, assigned to the review function, we have structured 43 employees for that function, of whom we have employed 36 thus far and anticipate an additional 7 employees will be attorneys for the General Counsel's office and support personnel.

In FY'80, we do not seek an increase in our budget (in fact, a $6,000 decrease is provided); nor do we seek an increase in our authorized full-time permanent positions. We do ask for an increase in authorization for law clerks in order to be able to provide each ALJ with a clerk. We do not anticipate being forced to hire more personnel for the review function of the Commission, but believe that caseload projections do indicate a necessity to hire up to 22 ALJ's by the end of FY'80. We will be able to absorb the increased salaries of any new personnel within the limits of our 1979 budget because initial start-up costs associated with the Commission in FY'79 will not be duplicated in FY'80.

But no matter what I tell you today, I must provide this rather large caveat.

The greatest problem we confront in predicting our personnel needs, particularly with regard to the ALJ function of the Commission, involves an analysis of our future caseload.

Earlier projections on which the FY'78 budget was predicated, have proven grossly exaggerated.

The anticipated caseload expected from the newly-included metal and non-metal mines, including sand and gravel pits, was projected to result in a 50% increase in those cases arising in the past from the coal mines.

For a variety of good and understandable reasons, that projected Western mines caseload has not developed in those proportions. There are signs, though, now that the new Act has been in existence for awhile, that the logistics of implementing its provisions in the Western mines have been largely accomplished. It is, therefore, far more likely that in FY'79 a substantial increase in the caseload will develop.

We are prepared to address that caseload. We will not employ personnel in either the ALJ function or the review function, solely in anticipation of that event. We believe we are sufficiently able to track the incidence of new cases in such a manner that we can quickly increase our review and ALJ capacities in a very short span of time.

We are optimistic that the objective of a fair, impartial and expeditious resolution of mine health and safety cases arising under the new Act can be readily accomplished within the budgetary figures we have presented you.

INTRODUCTION OF COLLEAGUES

Mr. WALDIE. Thank you, Senator.

To my left is our Chief Administrative Law Judge, Judge Broderick, and to my right is the Executive Director of the agency, Don Terry.

In addition, in the audience are the four other Commissioners: Mrs. Marian Pearlman Nease, Mr. Richard Backley, Mr. Frank Jestrab, and Mr. Al Lawson.

Senator HATFIELD. Gentlemen, we are happy to have all of you here. This way you are close to the testimony and you can correct the Chairman if he gets off base. [Laughter.]

Mr. WALDIE. Senator, I will just summarize, if I may, and perhaps add a point or two as to what my prepared statement states.

First, I think it important that you understand the newness of the agency and the newness of the Commission members before you.

We all took office in September and October of last year. So this is really the first budget in which our views and our thoughts have had any input whatsoever.

Second, I think it's important, to understand the nature of the agency in terms of some of the uncertainties that are reflected in the budget itself.

METAL AND NONMETAL MINES

The Congress in 1977 became concerned with the administration of coal mine health and safety. That concern was then expanded to reflect an additional and equal concern for mine safety and health in other than coal mines; that is, metal and nonmetal mines.

Congress amended the Coal Mine Health and Safety Act and reinforced its standards and made it much more effective. And at that same time, and most importantly, for our budgetary problems, they included under the same coverage, all mines in America, metal and nonmetal, as well as coal mines, and sand and gravel pits. That was a massive expansion of the jurisdiction of mine safety and health.

In addition, Congress made another change that I think is very important in understanding our budgetary requests. It reflects a judicial and administrative law change in concept. That concept was first initiated by the Congress with the OSHA Review Commission, and our agency is the second example of that concept.

That concept is important, I think, in understanding our budget.

What the Congress apparently concluded, and I think correctly, was that adjudication done within the agencies up to that date was replete with the possibilities, if not the actualities, of conflicts of interest because the adjudicatory function of an agency was also performed by the same authority that had the responsibility of promulgating regulations that were being adjudicated, and then of enforcing those regulations.

The result was obviously a built-in conflict that reflected if not an actual weakness, at least a perception of a lack of credibility, to the constituency that dealt with that particular agency.

And that, in fact, was also one situation with mine safety and health.

The Department of the Interior used to administer and also used to adjudicate. The Congress not only transferred that responsibility to the Department of Labor, but they also vested the adjudicatory

function in a separate, independent agency which is the Federal Mine Safety Health Review Commission.

ADJUDICATION

We, then, have the responsibility of adjudicating contested matters that emanate from the Secretary of Labor's decisions involving mine safety and health.

That function in our agency is performed at really two levels: The first level is at the administrative law judge level, where the cases are initially assigned for factfinding and preliminary adjudication.

Thereafter, if the parties are desirous of contesting a decision of the administrative law judge, or if an individual commissioner is able to persuade one other to join with him or her, the Commission will review the position of the administrative law judge. Therefore, the adjudicatory function within the Commission is first, independent; second, it is performed initially by the administrative law judge; and finally, it is performed by the Review Commission itself.

Now when the original budget was submitted for this agency, of necessity, it had to make some determinations that were not founded upon hard, concrete information. There was a great deal of speculation because of the newness of the act, because of the expansion of the coverage, and because of the newness of the concept.

And, therefore, the projections, I presume, as most projections are in those instances, were generous as to the needs of the agency.

The projections did not, in fact, occur; and to this date, they have not precisely met the projections that were formulated in the 1979 budget.

But the uncertainty that troubles us all is what will happen when the metal, nonmetal cases arrive within the process. And partly, that uncertainty stems from a conviction that we know pretty well what the coal mine caseload experience has been long enough and accurate enough and we can project with reasonable accuracy in that field.

But since there has been absolutely no experience whatsoever prior to this act in metal and nonmetal mines, we only can project with less accuracy and greater difficulty in that area.

PROJECTED CASELOADS

Senator HATFIELD. What's your current situation for projected caseloads?

Mr. WALDIE. Our current situation is that the first quarter of the 1979 fiscal year, we had a total of some 800 cases, of which 200 were metal, nonmetal; 600 were coal.

But in January, the first month of the second quarter, we have had a very remarkable statistic in terms of caseload. We have had over 600 cases come in in January alone, 200 of which were metal and nonmetal.

In other words, we received in January, alone, as much as we received in the first quarter, which leads us to believe that the crest may now be arriving.

Senator HATFIELD. How does that affect your projection to 1980?

Mr. WALDIE. We think in our 1980 budget we can meet our obligation with $6,000 less than what we have been appropriated for 1979. And the reason we believe we can do that is because the 1979 budget anticipated the necessity of 30 administrative law judges to meet our caseload, and that for a variety of reasons, not

the least of which is the productivity of the administrative law judges, we now think we can dispose of our caseload with 8 fewer ALJ's than last year's projection.

We hope by the end of 1979 to increase the 12 ALJ's that we now have to 18, and by the end of 1980, to increase those 18 to 22, which would still be 8 less than the 30 we are presently authorized.

We are operating on the premise that we believe we have sufficient control of statistics and understanding of the statistics that we can accurately anticipate need without having to employ personnel long in advance of that need. We do not think the objectives of the act, which include the prompt disposition of the caseload, will be in any way impeded by our restraint in employing the resources that we were authorized prior to the need becoming apparent.

CASELOAD LEVELING OFF

Senator HATFIELD. Of course that's predicated, as I understand, on the assumption that the January caseload is going to level off.

Mr. WALDIE. Yes, sir, it is. If the January caseload continues, that projects out to about 7,200 cases where the budget is predicated, I think, on 6,300 cases.

Senator HATFIELD. You do leave yourself that little caveat, don't you, that you are free to come back with a supplemental if that caseload shifts from your projections?

Mr. WALDIE. I would like to say, that is, every bureaucrat ought to say yes; but I don't think we will have to, Senator.

Senator HATFIELD. I'm very impressed.

Mr. WALDIE. I really believe we've got it under control.

Senator HATFIELD. Would you say in this kind of cranking up period that you have gone through, that the caseload projection has been the most serious problem?

Mr. WALDIE. It's been our most serious uncertainty, but it has not been that—it's not been a problem in that sense.

Senator HATFIELD. Have you had any other major problems?

Mr. WALDIE. No, sir, we have not. I would like to tell you, yes, we've got a lot of problems. We need a lot of money to solve them.

Senator HATFIELD. We need you, Chairman Waldie, in other agencies. [Laughter.]

We may borrow you.

Mr. WALDIE. You need our Commissioners.

Senator HATFIELD. You and your Commissioners.

Mr. WALDIE. The Commission really has, Senator——

Senator HATFIELD. How do you actually differentiate? If you pass that by me again—you weren't in the room, but this is my first assignment to this subcommittee, Labor-HEW appropriations. I have not been on the HEW subcommittee until this year, so I am in a learning process.

DAY-TO-DAY OPERATIONS

But how would you delineate on the day-to-day operations between your Commission and the Occupational, Safety, and Health Review Commission?

Mr. WALDIE. You will probably get a better answer from Chairman Timothy Cleary of the OSHA Review Commission, your next agency to be reviewed.

But, I think one of the distinctions, the scope of the review of an administrative law judge decision in the Federal Mine Safety and

Health Review Commission, is probably more limited than it is in the OSHA Review Commission. We have the substantial evidence test.

Second, we established institutionally a decisional process that is distinctive from that which I understand the OSHA Review Commission utilizes. Each Commissioner has one attorney and one secretary. That's the staff of each Commissioner. The Commissioners decide each case.

We have a general counsel's office that is a preliminary decision-writing office for centralized decisionwriting.

In other words, the staff of the Commission is centralized to process the decisions of the Commission. A system of centralized decision processing is more efficient, I believe.

We think thus far on our limited experience that that has worked out well, but we are not wedded to that; and if we find that it is creating difficulties in terms, again, of quality of decision as well as the speed with which cases are disposed, we will change that.

Senator HATFIELD. Well, next year, perhaps, we will have more questions to ask you in that you will be a year older.

Mr. WALDIE. The other difference, Senator, and I shouldn't overlook that, is that the Congress created five Commissioners for our Commission, whereas, there are three in terms of the OSHA Review Commission, and that's a distinction.

I don't know whether it adds to it or detracts from the efficiency. I am not able to ascertain that.

Senator HATFIELD. I would like to enter into the record at this time a letter from Chairman Waldie to Chairman Magnuson, detailing recent reprograming of the Commission, fiscal year 1979 appropriations.

Thank you very much for your appearance. I appreciate it very much.

[The information follows:]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION,
Washington, D.C., January 23, 1979.

Hon. WARREN MAGNUSON,
Chairman, Subcommittee on Labor/HEW Appropriations,
Washington, D.C.

DEAR MR. CHAIRMAN: I want to take this opportunity to set forth in some detail the administrative framework of the Federal Mine Safety and Health Review Commission before our presentation to your subcommittee is made in support of the agency's fiscal year 1980 budget request. This background is necessary because certain organizational decisions have been made in the initial allocation of Commission positions and funds which differ from the projected budget analysis which was submitted to your subcommittee last year in support of the fiscal year 1979 budget.

The Federal Mine Safety and Health Review Commission was established by the Federal Mine Safety and Health Act of 1977, and became operative on March 9, 1978, when certain functions, personnel, equipment, and fundings were transferred from the Office of Hearings and Appeals, Department of the Interior. However, the agency's commissioners did not take office until September and October of 1978. A supplemental budget for fiscal year 1978 in the amount of $193,000 was approved on September 15, 1978, and a fiscal year 1979 budget, in the amount of $4,776,000 was approved by the Congress before adjournment. The Commission was also authorized 81 permanent positions and 15 other than permanent positions, e.g., law clerks, for fiscal year 1979.

Because of the timing of past budget submissions, the agency's commissioners obviously played no role in the appropriations process for fiscal years 1978 and 1979. Additionally, one of our first decisions upon taking office was to ask for an extension of the deadline for our fiscal year 1980 submission to the Office of Management

and Budget so that the commissioners would have a meaningful opportunity to participate in the year's budget process.

The justification for the Commission's fiscal year 1979 budget request, projected 10 employees for the review function of the Commission, and 86 employees—including 15 law clerks—for the administrative law judge function of the Commission. Based on citation projections provided by the Department of Labor, the fiscal year 1979 budget request estimated that the Commission's caseload would require up to 30 ALJ's by the end of fiscal year 1979 and up to 6 regional offices.

However, by the time that the commissioners first met officially this past October, it was readily apparent that the review function would require much more than 10 permanent employees—5 commissioners and 5 secretaries—if the act was to be administered and enforced according to the intent of Congress. Moreover, it soon became equally apparent to the commissioners that a complement of 30 ALJ's would not be required.

Therefore, the commissioners approved an internal structure which created an Office of Executive Director, and an Office of General Counsel; and each of the commissioners was authorized to hire a personal attorney-advisor. Because of the lower than expected ALJ caseload, we were able to provide enough personnel for the review function within the commission's overall personnel authorization. The current allocations of positions by function is: Commission Review—43, ALJ function—53 (including 15 "other than permanent" positions).

I believe that given the circumstances involved, you will readily understand why it was necessary to implement the current administrative structure of the agency once the commissioners took office. If you have any questions concerning this matter, I would be happy to respond either before or during our fiscal year 1980 budget presentation to the subcommittee.

Sincerely,

JEROME R. WALDIE,
Chairman.

QUESTIONS AND ANSWERS

Question. How many of the 43 positions assigned to the Commission review function are for the Office of Executive Director, and how many are for the Office of General Counsel?

Answer. Of the 43 positions assigned to the Commission review function, 14 are for the Office of the Executive Director (see attachment A) and 14 are for the Office of the General Counsel (see attachment B). The remaining 15 positions represent the commissioners, their counsels, and their secretaries.

Question. What was the average grade of your employees both before and after your recent reorganization?

Answer. The average grade of our GS employees before the recent reorganization was 11.41 (1980 President's budget); after the reorganization it will be 11.22.

Question. How much workload do you feel would be necessary in the west to justify setting up the two field offices you are contemplating?

Answer. We would not set up the first ALJ office until we have in excess of 750 cases west of the Mississippi; and we would not set up the second ALJ office until we have in excess of 1,500 cases west of the Mississippi.

Executive director

No.	*GS*
Executive director	17
Secretary	9
Agenda clerk	9
Secretary	7
Mail and file clerk	5
Docket chief	9
Docket clerk	7
Docket clerk	7
Docket clerk	6
Administrative officer	12
Administrative officer	12
Editorial clerk	5
Clerk	5
Clerk	5
Total	115

General counsel

No.	*GS*
General Counsel	16
Assistant to general counsel	14
Secretary	9
Secretary	7
Secretary	6
Librarian	6
Attorney/Advisor	15
Attorney/Advisor	13
Attorney/Advisor	13
Attorney/Advisor	12
Attorney/Advisor	12
Attorney/Advisor	11
Attorney/Advisor	11
Attorney/Advisor	11
Total	156

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION

STATEMENT OF TIMOTHY F. CLEARY, CHAIRMAN

ACCOMPANIED BY:

LARRY A. HOSS, DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT
PAUL TENNEY, CHIEF ADMINISTRATIVE LAW JUDGE
ROBERT GOMBAR, GENERAL COUNSEL

Senator HATFIELD. Next, we will hear the Chairman of the Occupational Safety and Health Review Commission, Mr. Tim Cleary.

Mr. Cleary, I understand that the Commission's budget request for 1980 is $7,550,000, which is a decrease of $108,000 from 1979.

Mr. CLEARY. That's correct, Mr. Chairman.

Senator HATFIELD. We have your prepared statement, which we will place in the record in full, and if you will summarize it for us, we will be very happy to hear from you.

Mr. CLEARY. Thank you, Mr. Chairman. I certainly appreciate this opportunity to present our budget for your consideration and to introduce for the record those persons accompanying me.

INTRODUCTION OF ASSOCIATES

On my immediate right is Paul A. Tenney, Chief Administrative Law Judge. To his right is Robert C. Gombar, General Counsel. And to my immediate left is Larry Hoss, the Director of Financial Management.

As I said earlier, I appreciate the opportunity to present for your consideration the fiscal year 1980 appropriation request in the amount of $7,550,000 for the Occupational Safety and Health Review Commission.

As you indicated, it represents a decrease of $108,000, and nine positions from the funds approved by the Congress for fiscal year 1979.

Although the details on the changes of funding requirements are provided in the submission before you, I will highlight the significant parts of our submission.

CASE BACKLOG REDUCTION

The Commission has been able to continue the reduction in the backlog of cases during fiscal year 1978 by decreasing the case backlog by approximately 10 percent, despite the absence of a third Commission member for one-half of fiscal year 1978. In addition, case processing has been expedited so that the backlog will continue to be reduced even though a substantial increase in caseload is anticipated for fiscal year 1980.

Further, the development of simplified proceedings for less complex cases as well as other proposed changes in our rules of procedure have been well received. The proposed revisions have been published for public comment in the Federal Register.

On October 30, 1978, we held a public hearing in Chicago on the proposed changes and another public hearing is scheduled for this afternoon at 1 here in Washington.

GUIDE TO COMMISSION PROCEDURES

Our extensive educational efforts are continuing. Included in our educational program is the revision and updating of an easy-to-read Guide to Commission Procedures that explains and assists parties appearing before the Commission without legal representation.

I might add in passing that this booklet has been tremendously well received by the public.

The booklet which is also available in Spanish provides step-by-step instructions for contesting OSHA job safety and health enforcement issues in the hearing and review process, and contains how-to-do-it forms.

Wide distribution of the guide has been made to employers, employees, unions, trade associations, small business and consumer groups. We believe that there is even greater interest in the Commission and we are now working to institute a program of 1-day seminars around the country to explain the role of the Review Commission.

SEMINARS

Our first seminar will be held in Philadelphia on March 27.

I might add that as part of my continuing program to make the public more aware, we have decided to take the Commission to the people by holding oral arguments at various points around the country.

You might be interested in knowing that we have a hearing scheduled on February 28 in Albuquerque, N. Mex., concerning a case in which OSHA inspected and cited a sawmill located on and owned by the Navaho Nation.

The issue before the Commission is whether or not OSHA has jurisdiction over the Navaho reservation. It should be interesting.

Senator HATFIELD. I would only urge caution. [Laughter.]

I've been on the Select Committee on Indian Affairs and dealing with Navaho problems in other areas.

Mr. CLEARY. I announced our plans at a recent seminar in Colorado, and the announcement was well received. The plans are all part of our continuing program to make the people more aware of the Commission.

I find it—well, perhaps it's not so difficult to believe, but I have been with the Commission since its inception, and it's amazing how few people, appreciate the true independence of the Commission and that we are separate and distinct from OSHA, and they can receive a fair hearing.

TIME SEQUENCES

Senator HATFIELD. What has been the trend as far as the period of time required to have such a hearing and have a case adjudicated from the time that you started on the Commission and today?

Mr. CLEARY. It is difficult to make comparisons about time sequences, given the fact that in the early stages of the Commission, the contest rate was approximately 3 percent of all citations issued.

That rate has increased dramatically in the last year or so. In the first quarter of this fiscal year, it is up to around 13½ percent. Last year, for fiscal 1978, it was approximately 9.8 percent.

The time sequences, of course, will vary, depending on the complexity of case. As a rule, it takes some 220 days from the time an OSHA contest is filed until the judge's decision is issued.

Of course, then if the case is directed for review before the full Commission it will take longer.

NEED FOR MORE INSPECTORS

Senator HATFIELD. And then the congressional action adding inspectors has of course had an impact upon or will have a greater impact.

Mr. CLEARY. Yes. As I indicated, The rate of contests has increased. One of my reasons for advocating some form of simplified proceedings for less complex cases is to give emloyers an opportunity to get to the Commission just as quickly as possible and have their day in court, without all the requirements necessary in our more formal proceedings.

Senator HATFIELD. Going out there to them, of course, helps shorten that.

Mr. CLEARY. Actually our judges are already located throughout the country in nine regional offices so that hearings are held as close as possible to the scene of the alleged violation and more often than not, they are held right in the same town.

In perhaps most instances hearings are held within 50 miles of the scene of the alleged violation.

However, I point out that the Commission is receiving an increased number of more difficult cases, especially in the health area.

We now have about 18 coke oven emission cases that have come before the Commission in the last month or so.

Health cases, on an average, can require 4 to 6 weeks for a hearing, whereas, a safety case may require an average of 1 day for a hearing.

With the increased impetus given to job health, the increase in the issuance of standards by OSHA and the increased inspections, it is estimated that perhaps one-third of all OSHA inspections are now health inspections, with resultant health citations.

Our hearings are as difficult or as complex as any trial you might find in any State or Federal District Court involving the full gamut of the Federal Rules of Civil Procedure, Commission Rules of Procedure, the Federal Rules of Evidence, and also utilization of expert testimony.

APPEALED RULINGS

Senator HATFIELD. Are your rulings appealed to by the Federal District Court?

Mr. CLEARY. No. The case is heard by an administrative law judge who files his decision with the Commission. The Commission members have 30 days in which to review that decision.

Generally—the parties are given an opportunity to file petitions for review. We will either grant the petitions or any one of us can direct a case for review sua sponte without a petition.

More often than not, the great majority of cases are the result of granting petitions filed by one of the parties. The Commission will then decide the case after a briefing schedule is established.

After full consideration of the case, the case is decided by the Commission. Any person aggrieved by the decision has 60 days to file an appeal in the appropriate circuit court of appeals.

Senator HATFIELD. Very good.

Mr. CLEARY. I believe that concludes my remarks.

Senator HATFIELD. We may submit other questions to you, Mr. Cleary, and if you can respond to them—there won't be a great number—in a matter of 5 days or so.

Would that be a reasonable amount of time?

Mr. CLEARY. Certainly. It would be a pleasure.

Senator HATFIELD. It's a pleasure to see you, sir. Thank you for your testimony.

[The statement and questions and answers follow:]

STATEMENT OF TIMOTHY F. CLEARY

Mr. Chairman, I appreciate this opportunity to present for your consideration the fiscal year 1980 appropriation request in the amount of $7,550,000 for the Occupational Safety and Health Review Commission. This request represents a decrease of $108,000 and 9 positions from the funds approved by the Congress for fiscal year 1979.

Although the details of the changes on funding requirements are provided in the submission before you, I will highlight the significant parts of our submission.

The Commission has been able to continue the reduction in the backlog of cases during fiscal year 1978 by decreasing the case backlog by approximately 10% despite the absence of a third Commission Member for one-half of fiscal year 1978. In addition, case processing has been expedited so that the backlog will continue to be reduced even though a substantial increase in caseload is anticipated for fiscal year 1980.

Further, the development of simplified proceedings for less complex cases as well as other proposed revisions to our Rules of Procedure have been well received. The proposed revisions have been published for comment in the Federal Register. On October 30, 1978, we held a public hearing in Chicago on the proposed changes and another public hearing is scheduled for February 8th in Washington.

Our extensive educational efforts have continued. Included in our education program is the revision and updating of an easy to read Guide to Commission Procedures that explains and assists parties appearing before the Commission without the benefit of a lawyer. This booklet, which is also available in Spanish, provides step-by-step instructions for contesting OSHA job safety and health enforcement issues in the hearing and review process, and contains "how-to-do-it" forms. Wide distribution of the Guide has been made to employers, employees, unions, trade associations, small business people and consumer groups. We believe that there is greater interest in the Commission and we are now working to institute a program of one-day seminars around the country to explain the role of the Review Commission. Our first seminar will be held in Philadelphia on March 27th.

For the future, I foresee the workload of the Commission being affected by two factors. First, a substantial number of cases involving the coke oven and noise standards have now reached the Commission and it is clear that cases involving OSHA's health standards are more complex, costly and time consuming. Also, I anticipate that the proposed revisions to the Commission's Rules of Procedure will increase the volume of petitions for review before the Commission by virtue of the fact that it will be much easier and less expensive for small business persons and small union locals to pursue their case through the full review process.

Although we anticipate an increased workload in the future for the Commission, it is my belief that the present staff is fully

capable of absorbing that increase. The changes we have made, while probably resulting in an increased work level, also allow for present staff to absorb and process the increase.

Mr. Chairman, I believe that the Occupational Safety and Health Act is a landmark statute dealing with the vital social need of life and limb in the workplace. I remain committed to its goal. My staff and I are now ready to answer any questions you and the Subcommittee may have.

QUESTIONS AND ANSWERS

How long must a businessman or employee group wait to have a case heard and adjudicated now compared with several years ago?

The period of time required to have a case heard and adjudicated by the Commission at the present time is as follows:

(1) From time of receipt of the Notice of Contest until assigned to an Administrative Law Judge requires approximately 82 days.

(2) From time of assignment to an Administrative Law Judge until disposition by the Judge required approximately 102 days for the cases disposed of by settlements and 211 days for those cases disposed of by a full hearing.

(3) From time of direction for review by a Commission Member until disposition requires approximately 508 days.

When compared to the time required for the case processing several years ago, the present time for Administrative Law Judge disposition of all cases is less than it was several years ago, while the time required for Commission Member's disposition has increased. The increase in time by the Commission Members is a direct result of the absence of a third Commission member during the last half of fiscal year 1977 and the first half of fiscal year 1978 and the complexity of the cases presently being directed for review.

What is your backlog of cases?

The backlog of cases before the Administrative Law Judge at the end of fiscal year 1978 was 1,749 cases and the backlog of cases before the Commission Members was 369 cases. At the end of the first quarter of fiscal year 1979, the backlog of cases before the Administrative Law Judges had increased to 2,079 cases and the backlog of cases before the Commission Members had increased to 385 cases.

Does the Six-year history of previous Review Commission cases assist in expediting your decision-making?

Experience gained by the adjudication of previous cases including safety issues and the establishment of Commission precedents in those cases do assist in the expediting of decisions in cases where the precedents are applicable. However, many cases presently before the Commission involve health issues, jurisdictional issues, and some complex safety issues that have not been ruled upon in previous Commission decisions. In adjudication of cases of this nature, previously established precedents do not assist in expediting the adjudication process.

What is the relationship between adding inspectors to OSHA's staff and the increase in your case workload?

Past history indicates that a direct relationship cannot be drawn between those two areas. Over the past two fiscal years, the level of OSHA inspections has decreased although the Congress has added additional positions to the OSHA staff. At the time when the level of OSHA inspections has decreased, the resulting caseload before the Commission has increased significantly from 6.3 cases per 100 OSHA inspections to 13.4 cases per 100 OSHA inspections. The increase in caseload is attributed to a greater number of time consuming and complex inspections being done by OSHA resulting in contests before the Commission and the success of the Commission's efforts to be known to the public as an impartial body before which they may plead their case.

Specifically, how much additional workload do you expect to be generated as a result of Congress having provided OSHA with 200 more inspectors in the Fiscal Year 1979 appropriations bill?

It is estimated that the additional 200 inspector positions would result in an increase in OSHA inspections of approximately 1,500 per year. Based upon the present Notice of Contest rate, the Commission would expect to receive approximately 200 additional cases as a result of the added OSHA positions.

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SOLDIERS' AND AIRMEN'S HOME

STATEMENT OF GEORGE H. McKEE, GOVERNOR

ACCOMPANIED BY:

COL. R. W. HAMPTON, SECRETARY-TREASURER
R. A. GRITTON, BUDGET OFFICER

BUDGET REQUEST

Senator HATFIELD. We will now look at the budget request for the Soldiers' and Airmen's Home, the fiscal year 1980 budget. The fiscal year 1980 budget request is for $18,471,000. I believe you are also requesting a supplement of $590,000 for fiscal year 1979. Thus, the total increase in 1980, if we approve your supplemental, will be about $1 million.

This money will support about 2,200 former Army and Air Force servicemen and servicewomen. Our witness this morning is Gov. George McKee, the new administrator of the Home.

And this is your first time before us, I believe, General?

General McKEE. That is correct, Mr. Chairman.

Senator HATFIELD. Since General Unger's retirement last October.

You may proceed with your justification of your budget request. Your full statement will be placed in the record, Governor. If you would proceed to summarize it at this time, I would appreciate it.

[The statement follows:]

STATEMENT OF GEORGE H. MCKEE

PURPOSE

The purpose of this statement is to furnish information on the Home which may be of interest during the committee's consideration of the Home's fiscal year 1980 appropriation request. Included is pertinent information on the Home: its mission, administration, physical plant, financing, and members. The statement also provides a general description of the fiscal year 1980 appropriation request as compared with the fiscal year 1979 appropriation.

MISSION

The Home was established by Congress in 1851 for the relief and support of retired, invalid, or disabled soldiers of the Regular Army. Membership is a benefit for former warrant officers and enlisted personnel of the Regular Army and Air Force with the following qualifications: (1) honest and faithful service for twenty years or more as warrant officers or enlisted personnel, or (2) service-connected disabilities rendering them unable to earn a livelihood, or (3) non-service connected disabilities rendering them unable to earn a livelihood, provided they have had service during a war. These criteria are listed in this order, not as priorities, but because about eighty-six percent of the membership is of the first group, and about fourteen percent is of the disabilities groups.

ADMINISTRATION

General supervision of the Home was placed by Congress in a Board of Commissioners now composed of the Governor of the Home, the Comptroller of the Air Force, the Chief of Engineers of the Army, the Surgeon General of the Army, the Judge Advocate General of the Air Force, the Adjutant General of the Army, the Assistant Deputy Chief of Staff for Personnel of the Air Force, the Sergeant Major of the Army, and the Chief Master Sergeant of the Air Force. Subject to approval by the Secretary of the Army and the Secretary of the Air Force, the Board has authority to establish regulations for the internal direction of the Home. The law provides for an annual report of inspection of the Home by the Army Inspector General and Auditor General to be submitted to Congress.

PHYSICAL PLANT

The Home is situated in northwest Washington, D. C. Facilities include four domiciliary and three hospital buildings, a service area, a heating plant, a laundry, and some minor structures. The domiciliary capacity of the Home is 2149 beds. Our hospital has a constructed capacity of 410 beds, with optimum usage of 348. Throughout the years, the loss of Home lands to other activities has reduced the acreage from about 500 to the present 300. The members of the Home are grateful for the support provided by committees of Congress for retention of the Home's land against proposals to further reduce it.

FINANCING

The Act of 1851 provided that the Home be supported from two principal sources: (1) a monthly contribution while on active duty of twenty-five cents from each enlisted member and warrant officer of the Regular Army and Air Force, and, (2) fines and forfeitures imposed upon these personnel by sentence of courts-martial. The Act of

1883 established a Permanent Fund in the U. S. Treasury and provided for the payment of interest of 3% per annum on the fund balance. On December 15, 1973, the Act of 1883 was amended so as to increase the interest paid on our Permanent Fund Balance. This increased rate is determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States. Under this amendment, the Home is now receiving about 8% interest on its fund balance. In addition, Public Law 94-454, October 2, 1976, authorized the collection of a fee from the members of the Home and an increase from twenty-five to fifty cents in the amount of the monthly active duty deduction. The Permanent Fund balance on September 30, 1978 was $92.5 million.

MEMBERSHIP

Our male members range in age from 40 to 100, with an average age of 64. Our female members range in age from 47 to 84, with an average age of 70. There are 76 female members. Average total membership during fiscal year 1978 was 2,228, including 2,129 present. Fiscal year 1979 and FY 1980 average total memberships are expected to be 2,235, including 2,140 present. Because Home membership was fast approaching full capacity, the Board of Commissioners' approved priority system for admission to the Home was implemented in February, 1974. Our hospital is full, which accounts for our Waiting List of approximately 145 persons, all of whom require extended hospitalization.

THE FY 80 BUDGET FOR OPERATION AND MAINTENANCE

The Home's fiscal year 1980 operation and maintenance appropriation request at $18,471,000, is $942,000 greater than its fiscal year 1979 appropriation of $17,529,000, which includes a $590,000 pay raise supplemental. A detailed description of the $942,000 increase is included in the Home's justification booklet which has been submitted to the committee. Briefly, this $942,000 increase will provide: $375,000 for inflation; $254,000 for several relatively uncontrollable salary items; and $313,000 for several program changes. First, our budget anticipates the continuation of inflation for certain items. In the past few years, the Home has operated under a self-imposed reduction program to improve our fiscal viability and this has allowed the absorption of price increases. However, the desired results of this program have been achieved and its stringency somewhat relaxed. Second, the salary estimate provides for annualizing in FY 80, step increases and upgradings granted in FY 79; workers compensation for injured employees is greater in FY 80 due primarily to the increased cost of medical care; and there are two more work days in FY 80 for which certain employees must be paid. Third, the budget provides additional funds for several program changes, as follows: (a) for improvements to the living condition of members and patients; (b) for restoring certain supply inventories; (c) to increase routine maintenance which has been deferred during the past few years; and (d) for replacement of a bus for recreation purposes. These program increases will be offset somewhat by a reduction in employment begun in FY 79, and by other program reductions.

CONCLUSION

The members of the Home appreciate the interest in their welfare that the committee has taken over the years.

GOVERNOR'S REMARKS

General McKee. Thank you, Mr. Chairman.

I would like to express my appreciation for being here with you this morning representing the U.S. Soldiers' and Airmen's Home.

I do have a few points to make in addition to the statement. I would like to briefly add for today's record and for any new members of your committee or staff, since the Soldiers' and Airmen's Home creation in 1851, its development, upkeep, and operation have not been a burden on the taxpayers of the country. In fact, largely unknown even to the well-informed people, the support of our fund is derived principally from the soldiers and airmen themselves, and are set apart by law in a trust fund under the Soldiers' and Airmen's Home fund. The balance of the fund on September 1, 1978 was approximately $92.4 million.

Our fiscal year 1980 appropriations request is, as you stated, $18,471,000. This is $942,000 more than last year's request. This $942,000 consists of $375,000 for estimated inflation; $254,000 for uncontrollable salary items such as annualizing pay raises, promotions, and other such expenses.

So, actually, the Home is requesting your approval of what amounts to $313,000 in program changes.

I would like to say that this $942,000, considering the pay increases, is less than 5 percent of last year's budget.

ADDITIONAL QUESTIONS

Senator Hatfield. General, we have a number of questions here that we will provide you. And if you will respond to them within a 5-day period—there are only about six of them, I think—I would like to raise one or two with you at this time verbally.

[The questions and answers follow:]

Questions Submitted by Senator Hatfield

RENOVATION STUDY

Question. You have budgeted $159,000 for a study of renovation and conversion of dormitories at the Home. Exactly what does this cost consist of?

Answer. $109,000 will pay for the actual conversion to single rooms of a portion of the double rooms in the Scott and Sheridan dormitory buildings. $50,000 is our current estimate for the cost of an architectural study to determine the feasibility and cost of renovation of the Grant dormitory building.

Question. Is this the total cost of the study?

Answer. Additional funds may be required depending on preliminary findings.

Question. What do you hope to determine from this study?

Answer. If the Home is to update its dormitories to provide single rooms with bath, it must undertake renovation of older structures. We hope to determine from this study whether we can plan on the physical conversion of our older structures.

FOOD COSTS

Question. You have budgeted for a 12-percent increase in the cost of food at the Home. Is this consistent with your past experience?

Answer. In fiscal year 1978, the average ration cost in our domiciliary mess was 13 percent higher than the average during fiscal year 1977; in our hospital, it was 11 percent higher. For the first 4 months of fiscal year 1979, the average ration cost in the domiciliary mess has been $2.08; in the hospital mess, $2.21, about what we anticipated.

Question. Have you taken any steps to control food cost increases?

Answer. We have a food advisory council which meets regularly to take appropriate steps to hold food costs down. Action taken includes the substitution of lower

cost, but nutritionally sufficient, items on the menus. Our food cost increases appear to be in line with the increase in food costs throughout the Washington, D.C. area.

STAFF CUT

Question. You are projecting a reduction in fiscal 1980 of 10 staff years through attrition. Where will the reductions be made?

Answer. The reduction will be distributed as follows: Approximately 42 percent will be at our health care facility; 30 percent in domiciliary care areas; and 25 percent in support services and administration.

Question. Do you expect further cuts in subsequent years?

Answer. Since personnel cost amounts to 73 percent of our total budget cost, this area will be under constant review toward a reduction.

BIOGRAPHICAL DATA

Senator HATFIELD. First of all, looking over your biographical data sheet, I don't want in any way to embarrass you, but I am very, very impressed by your extraordinary and outstanding record and the decorations, service awards, which you have received. I just think it is outstanding. Why can't we put it in the record at this point? I would just like to put the whole sheet in, since this is your first time before the committee.

Coming from a former Navy man, I want you to know I am also concerned about where our retired Navy people go. You tell me this home was founded in 1851. Obviously, it wasn't an airmen home then.

General MCKEE. No, sir. It was a soldiers' home at that time. The name was changed to the Soldiers' and Airmen's Home in 1972.

Senator HATFIELD. But you have reached out to include airmen.

General MCKEE. Yes, sir. Approximately 36 percent of the home members are retired Air Force enlisted personnel.

NAVAL HOME

Senator HATFIELD. What about the poor Navy?

General MCKEE. The Navy has a similar facility which is supported by appropriated funds. Their facility is located at Gulfport, Miss. I believe they relocated from Philadelphia in mid-1976.

At one time, I understand they also operated as a trust fund type facility, and due to reasons with which I am not familiar they are now supported from regular appropriations.

We have some considerations we are working on as to what will need to be done in the future in order to maintain the financial viability of the Soldiers' and Airmen's Home. This will be pursued as a separate requirement at a later time.

Senator HATFIELD. Well, I am going to place in the record your full biographical data, but I just wanted to especially give emphasis to the decorations and service awards.

BIOGRAPHIC DATA

George H. McKee, Lieutenant General, U.S. Air Force, Retired

A. Personal Data

Born: April 28, 1923, Pickens, S.C.; married to: Nikki Young; children: Two; home town: Lakeland, Fla.

B. Education

Military—Army Administration School; Air Tactical School; Industrial College of Armed Forces: Civilian—University of Omaha—B.A. Degree—Education.

C. Major Permanent Duty Assignments

Enlisted—Instructor, Airplane Mechanics, Course, Aircraft Crew Chief, Flight Chief, Quality Control Inspector, Pilot B-17, B-29 Aircraft. Highest enlisted grade, Master Sergeant, 1940 to 1947.

Aircraft Commander, Squadron Maintenance Officer, Adjutant, Operations Officer, Commander, 49th Bomb Squadron, Hunter AFB, Ga. 1947 to 1955.

Command Project Officer, SAC Command Control System, 1955 to 1960; Deputy Commander, 3974th Combat Support Group, Zaragoza, Spain, 1960 to 1961; Commander, 3974th Combat Support Group, Zaragoza Air Base, Spain, 1961 to 1963; Deputy Commander for Maintenance, Blytheville AFB, Ark., 1964 to 1965; Commander, 72nd Bomb Wing, Ramey AFB, Puerto Rico, Commander, 97th Bomb Wing, Blytheville AFB, Ark. Commander, 319th Bomb Wing, Grand Forks AFB, N.D. 1965 to 1968; Commander, 19th Air Division, Carswell AFB, Texas, 1968 to 1970; Director, Maintenance & Engineering, Headquarters USAF, 1970 to 1972; Chief of Staff, Strategic Air Command, 1972 to 1973; Commander, Eighth Air Force, Guam, 1973 to 1974; Commander, Air Training Command, 1974 to 1975; Retired: 1975.

D. Decorations and Service Awards

Distinguished Service Medal (with 2 Oak Leaf Clusters); Legion of Merit (with Oak Leaf Cluster); Distinguished Flying Cross; Air Medal (with 4 Oak Leaf Clusters); Good Conduct Medal; European/African/Middle Eastern Campaign Medal (with 4 Service Stars); Vietnam Service Medal (with Silver Star); Air Force Outstanding Unit Award Ribbon; Legion of Merit from Spain.

Senator HATFIELD. Distinguished Service Medal with two oak leaf clusters. The Legion at Merit oak leaf cluster. Distinguished Flying Cross. The Air Medal with four oak leaf clusters. Good Conduct Medal. The European, African, Middle Eastern Campaign Medal with four service stars. Vietnam Service Medal with Silver Star. Air Force Outstanding Unit Award ribbon. Legion of Merit from Spain.

General MCKEE. Thank you, Senator.

Senator HATFIELD. You have an enviable record, sir. We are very grateful to you.

General MCKEE. Thank you, sir.

Senator HATFIELD. And I think probably today you are at the highest of all assignments you have had.

General MCKEE. That's correct. I know it's going to be, from a job-satisfaction point.

Senator HATFIELD. I am sure of that.

GAO REPORT

Senator HATFIELD. Last year the General Accounting Office raised some questions about the long-term financial stability as a whole of the Home. What is your current projection of the financial requirements and the anticipated receipts of the permanent fund in the long run?

General MCKEE. At the present time, Mr. Chairman, it appears with our present income and expenditures, we will probably enter deficit spending in fiscal year 1980 or 1981.

There was a difference of opinion with the General Accounting Office as to what time frame we would be running into financial difficulty. GAO said it would be approximately 1985. The Home contended it would be sooner. The General Accounting Office's projection, I believe, was based on an increase in the enlisted withholding pay for the Army and Air Force personnel, raising the amount from 25 to 50 cents a month, and the establishment of a users fee for the Home member. This users fee could be as much as 25 percent of the member's gross retirement income. These increases were authorized by Public Law 94-454.

With this additional income, plus the interest from the permanent trust fund, the GAO people predicted that we would probably be able to operate until mid-1985 before we started running into problems again. Another area of difference with GAO was the inflation factor used in their report. They used a rate of 5.85 percent for the first 10 years of their projection. A more realistic rate is about 7 percent. This is what the Home used and our best estimate tells us we will encounter deficit spending again in approximately the fiscal year 1980–81 time frame. If we have to fund for another pay increase for about the same amount as the last one, we will probably encounter a deficit in the fiscal year 1980 budget because such a pay increase is not included in the $18,471,000 being requested today.

If deficit spending is encountered in fiscal year 1980 and we fail to obtain some other source of funding, the Soldiers' and Airmen's permanent trust fund will be depleted in approximately 12 years.

Is that about correct, Mr. Gritton?

Mr. GRITTON. Yes, sir, it is.

WAITING LIST

Senator HATFIELD. You have a waiting list, I understand, of about 140——

General MCKEE. Yes, sir. Those are applicant's who require hospitalization.

Senator HATFIELD. 145. What is the average length of delay, waiting time, for admission to the hospital? And what do you do with those awaiting hospitalization? Do you have other hospitals in the area, a VA facility, or other such facilities you can utilize?

General MCKEE. The average length of delay for an applicant to enter the Home if he requires hospitalization is from 2 to 3 years, depending on his standing on the priority list. We invite some 48 to 50 applicants per year to come to the Home. We have no arrangements with the VA or Walter Reed to hold these prospective members until we can accommodate them. We do have agreements with the VA and Walter Reed for support in treating or caring for our acutely ill members, or members who require specialized treatment beyond our staff of professional expertise in the health care facility.

If an applicant does not require any immediate hospitalization, there is no waiting period. In fact, we could accommodate an approximate 300 additional members today, again providing they don't require immediate extended medical attention.

ABRAHAM LINCOLN VISITS

Senator HATFIELD. What is our historic recall of Abraham Lincoln's association with the Soldiers' Home?

General MCKEE. I equate his visits up there—I call it the equivalent to his Camp David. In the summertime, the President and his family would go out and spend the summer months at the Old Riggs Home there, for several years around 1862.

Senator HATFIELD. That's very interesting.

General MCKEE. It would require the President about the same amount of time using a horse and carriage to travel to the Home as for a helicopter to Camp David. [Laughter.]

Senator HATFIELD. That's a good comparison; isn't it?

Thank you, General, for your comments and presentation. I appreciate it very much. I would like to come out and visit it one of these days.

INVITATION FOR VISIT

General MCKEE. Mr. Chairman, I would like to invite you and any member of the staff out. That's one program we are embarking on, to get more of our responsible leaders to visit the Home. It's really a fine institution. It's only some 3 miles north of the Capitol here, located on approximately 300 acres of land, and I am sure you would be quite pleased with what you see out there.

Senator HATFIELD. I regret I haven't been out before, but this is a good reason to get out there now that I am on the subcommittee, and I will expect to do that.

General MCKEE. Now that you have opened the door, sir, we will continue to send you invitations until you accept.

Senator HATFIELD. Thank you very much.

SUBCOMMITTEE RECESS

We will be in recess now until 1 p.m., when we will resume.

[Whereupon, at 12:05 p.m., Thursday, February 8, the subcommittee was recessed, to reconvene at 1 p.m., this same day.]

(AFTERNOON SESSION, 1:10 P.M., THURSDAY, FEBRUARY 8, 1979)

ACTION

STATEMENT OF SAM BROWN, DIRECTOR

ACCOMPANIED BY:

JOHN R. LEWIS, ASSOCIATE DIRECTOR FOR DOMESTIC AND ANTI-POVERTY OPERATIONS
HELEN KELLEY, DEPUTY ASSOCIATE DIRECTOR FOR OLDER AMERICAN PROGRAMS
MARGERY TABANKIN, DEPUTY ASSOCIATE DIRECTOR FOR VISTA/ACTION EDUCATION PROGRAMS
DENNIS DERRYCK, DEPUTY ASSISTANT DIRECTOR FOR POLICY AND PLANNING
MARY F. C. LEYLAND, ASSISTANT DIRECTOR FOR ADMINISTRATION AND FINANCE
EMERSON MARKHAM, BUDGET DIRECTOR
HARRY MACLEAN, GENERAL COUNSEL
DANA RODGERS, DIRECTOR, PLANNING DIVISION

BUDGET REQUEST

Senator INOUYE [presiding]. All set? This afternoon we will discuss the domestic operations of the Action agency. Its Director, Sam Brown, has been a visible and aggressive advocate of community organizations in their battle against poverty. So I am pleased to welcome you, Mr. Brown, and look forward to discussing with you the mission of your agency, as it is reflected in both general and specific budgetary priorities.

Before proceeding, for the record, will you introduce your colleagues?

Mr. BROWN. On my far left is Helen Kelley, who is Director of the Older American Volunteer programs at the ACTION agency; Marge Tabankin, who is Director of the VISTA and ACTION education programs. To my immediate left, Emerson Markham, who is Director of the Budget Division of the Agency. To my right: John Lewis, the Associate Director of the Agency for Domestic and Anti-Poverty Programs; and to his right, Dana Rodgers, who is the Director of the Planning Division of the Agency.

FISCAL YEAR 1980 REQUEST

Senator INOUYE. Please proceed, sir.

Mr. BROWN. The budget request which you have before you is for $169.6 million for the domestic volunteer programs of the Agency. It represents an increase of about 25 percent, or $35 million over last year.

It is a budget, however, which we believe to be rooted in the firmest foundations of the most basic of American values: In equality, participation, self-reliance and finally, in the American tradition of helping one's neighbors.

If the country is to have the New Foundation that President Carter has spoken of, it seems to me it needs to be built on very old values.

The budget has three major objectives. They are: To strengthen the Older American programs, to increase the size of our VISTA program and to establish a fully operational urban volunteer program.

FISCAL YEAR 1979 SUPPLEMENTAL

In addition, we are requesting a supplemental appropriation of $15.3 million for fiscal year 1979. That supplemental is to be used to recruit and train VISTA volunteers, to initiate the urban volunteer program and to develop a concept of national youth service, and a small part of it to cover program support costs. The supplemental request is to some extent an unusual one in that it is not, as the traditional definition would be, an emergency request. It is a request which would partially restore the program levels that were requested by the administration last year, but never enacted into law because we are still on a continuing resolution as of this date.

Senator INOUYE. May I interrupt you as you go along?

Did OMB approve this supplemental request?

Mr. BROWN. Yes, sir.

Senator INOUYE. Even if it is not an urgent matter?

Mr. BROWN. Yes, sir. It is accurate to say that we regard this as an urgent request, but is not in a traditional sense an emergency in that it was anticipated. For instance, if that supplemental is not enacted, it would have a devastating impact on VISTA in the fourth quarter of this year. The levels of programing are such that we have approximately 2,600 volunteers who enter service during the fourth quarter. Without the supplemental, they simply would not be able to serve.

Senator INOUYE. That is urgent.

Mr. BROWN. It is urgent, very urgent. And it is the reason why we have requested an early authorization hearing, which the Congress has graciously allowed. Reauthorization of the program would mean that the Appropriations Committee would be permitted to act.

FISCAL YEAR 1980 OLDER AMERICAN VOLUNTEERS

The first part of the 1980 request, in the Older American programs, is really to sustain and strengthen those programs. It represents an increase of $10 million over last year's level. Of that amount the majority, a little over 60 percent, is to be used for stipends for Foster Grandparents and Senior Companions. The remaining amount of the increase goes principally to pay support costs for Retired Senior Volunteer Program volunteers.

You may recall last year the administration recommended a reduction in the Retired Senior Volunteer Program. It is our best judgment at this point that it was an error to have requested that. The administration subsequently requested a restoration of the cut during the course of last year's legislative session to its then current level. Having looked at the program more and having seen what it can do, it is quite clear to us that the program in fact

deserves not a cut, but an increase in its level of funding. That's what has been recommended in this year's appropriation request.

Senator INOUYE. Mr. Brown, as you are aware, this is my first day on this subcommittee, so I am going to be asking you questions that may be a little elementary. But I hope you will bear with me.

What do these volunteers receive in the way of stipends?

Mr. BROWN. Currently the Foster Grandparents and Senior Companions receive $1.60 per hour plus some additional benefits in the form of transportation, meals and insurance expenses. The stipend has been at that level since the program was initiated in 1965.

Is that right?

Ms. KELLEY. The last increase occurred in 1966.

Mr. BROWN. And there's been no increase since then. There's been substantial congressional pressure, particularly from the authorizing committees.

Senator INOUYE. Doesn't minimum wage apply?

Mr. BROWN. No, it doesn't. The stipend is nontaxable and is an income supplement to the low-income—by definition, all of the volunteers are low-income individuals. It is also not a set-aside against social security costs.

Senator INOUYE. Fine. Please proceed.

Mr. BROWN. Volunteers in the Retired Senior Volunteer Program, which is the biggest in terms of numbers, receive no stipend at all. The increases are principally for transportation and administrative costs.

We have attempted to link the Older American programs with our other volunteer programs.

About 40 percent of our funding request is for Retired Senior Volunteer Programs, and there are a total of approximately 250,000 of those volunteers. About 40 percent of those projects are now linked in one way or another with either a Foster Grandparent, Senior Companion or a VISTA program.

VISTA

The second objective of the budget request before you is a request for $37,399,000 for VISTA in 1980, an increase of approximately 10 percent over this year's level including the supplemental. It would be a substantial increase over the current resolution level, but about 10 percent over the current resolution plus supplemental level, and represents really a second phase of a planned restructuring and rebuilding of VISTA.

In the last few years the efforts were aimed at articulating a clear programmatic direction and improving management of the already existing programs. We are in fact quite pleased with the recovery of VISTA.

The most astonishing statistic developed in the course of that is that it appears that VISTA volunteers reach, in one way or another, approximately one out of 20 poor people in this country. For a program of that size, it has a remarkable degree of impact.

In Minnesota, for instance, one of VISTA's older American volunteers obtained more than $100,000 worth of funding for a senior federation program, organized a 10-county discount buying system and serves more than 3,000 people. That's one VISTA volunteer.

VISTA is, on the average, recruiting the equivalent of 15 non-ACTION volunteers and generating public and private resources equivalent to an additional $24,000. That's for a Federal expenditure of approximately $6,500 per volunteer.

VISTA has accomplished significant program improvements in the last year. A national standard for project selection has been delineated, a competitive national grant mechanism established, the payroll process has been streamlined, and health care availability to volunteers has been improved.

In the future, in 1980, there is a projected increase of approximately 800 volunteers. But a substantial part of the increase really is for consolidating improvements that we first began to test through the national grants program. Particularly in the areas of training and supervision, we believe the VISTA program in the past has been weaker than it should be.

VISTA will continue to focus its attention on improved training, and there will be a standard training mechanism.

You have heard this from me on the Peace Corps side. Some of the same concerns we had about Peace Corps in terms of the adequacy of the training reflect the same way on the VISTA side. Training has been reduced in many cases, to only 2 days per volunteer. And we intend to add about 6 days to that next year and, in the case of some volunteers who enroll for 2 years, to make as much as 28 days of training available.

JAMAICA PROPOSAL

Senator INOUYE. Recently you had some publicity in most of the major papers concerning a group of young people sent to Africa for specialized urban training. I may have read wrong.

Mr. BROWN. It must be the Jamaica project.

Senator INOUYE. Was that on the Peace Corps or VISTA?

Mr. BROWN. Well, in fact it never happened on either side. It was an in-house staff discussion which took place approximately 8 months or a year ago.

Ms. TABANKIN. A year ago.

Mr. BROWN. This discussion concerned the possibility of sending some VISTA volunteers to work in a Peace Corps project for some period of time. They would then come back to work in this country on a comparable kind of project as VISTA volunteers. It was one of 20 discussions that we held.

Senator INOUYE. It was never implemented?

Mr. BROWN. No. Lots of newspaper headlines, but no implementation at all. We discussed short-term volunteer projects, volunteer projects that more professional people could take part in, volunteer projects that people with less specialized training could participate in—a whole range of things. Conceptually, that one happens to be offensive to some people, so it got widely publicized.

Senator INOUYE. Do you have any training programs where VISTA volunteers are required to travel abroad?

Mr. BROWN. No.

VISTA RECRUITMENT

Senator INOUYE. Do you have any VISTA volunteers traveling outside their immediate jurisdiction?

Mr. BROWN. Well, if they are assigned to a community—Marge may be able to expand on this.

Ms. TABANKIN. Certainly. If a volunteer would join VISTA from New York City and be placed in an assignment in Alaska, it would be most beneficial to have the training for those volunteers at one time in the State of Alaska. This way the training can be oriented more toward the special needs of the State of Alaska. So we do have some traveling.

Senator INOUYE. Why should you have to recruit someone in the State of New York to go to Alaska? Can't you get someone in Alaska?

Ms. TABANKIN. Well, about 70 percent of our volunteers right now do come from their own communities. But there are some times when there are special skills needed that we advertise for nationally and we find—lawyers, accountants, architects, et cetera.

Also, I think historically VISTA has been a national program where volunteers have walked up to community recruiters or campus recruiters and said: I'd like to serve my country, and what's available? And we match them up with what's available.

Mr. BROWN. The recruitment, incidentally, is done concurrently with Peace Corps recruitment. It is done by the same recruiters for those national volunteers.

Historically, in VISTA's early days, most of the volunteers had been nationally recruited, and that, frankly, led to some of the very severe criticisms of the program in its early years. It was sort of people dropping in on a community from outside.

I think the balance we have now—about 2 to 1 locally recruited over national—seems to be a pretty good balance and one which provides a mix of skills and talents.

Senator INOUYE. Please proceed.

URBAN PROGRAMS

Mr. BROWN. The third major goal and the third item outlined in our request to you is to establish urban programs. These programs were originally proposed by the President in the spring of last year. At that time the funding request was for $40 million.

The administration is now requesting $25 million in fiscal year 1980 and startup funds of approximately $4.7 million, in fiscal 1979.

TECHNICAL AND MANAGEMENT ASSISTANCE

The programs are: An Urban Volunteer Corps consisting of technical and management assistance and fixed-incomes consumer counseling. The Urban Volunteer Corps is very straightforward. First it will provide technical and management assistance. The way we will do it is to build a small mechanism to recruit the volunteers on the one hand and assign them in the community on the other hand; part-time, nonstipend volunteers. It would require very little Federal employment and very little cost.

We have seen that a number of small community groups and organizations fail in their early days for lack of a little bit of technical assistance, for example, from a lawyer and an accountant. We have also seen that frequently professional volunteers, frankly, don't know how to get linked up with the low-end income community. Frequently there aren't the social linkages which might make it possible.

We propose there be a grant mechanism to a local agency, which would then administer the recruitment-assignment process in the community. This is the technical and management assistance program.

We've done some demonstration models of it in various parts of the country. It works and it generates resources substantially in excess of the expenditure of Federal resources. We estimate, as I recall, about 11 to 1?

Mr. RODGERS. Yes, for every dollar of public money we estimate about $11 worth of service will be rendered by the volunteers.

FIXED-INCOME CONSUMER COUNSELING

Mr. BROWN. The second component of the program is fixed-income consumer counseling. Again, we have some demonstration projects, one in Denver, one in southern California, and one in Atlanta, Ga., which recruit volunteers from the community to work with low-income community people on very specific kinds of problems, particularly those on a fixed income. The counseling is on food advice, or what kinds of nutritious foods could be bought at lower prices, clothing, how to save energy, and on how to get the most out of the dollars that they already have.

Senator INOUYE. How are these cities selected? You mentioned——

Mr. BROWN. Those are demonstration projects. Fortunately Denver, I can say, was selected under my predecessor before I came to Washington.

Senator INOUYE. I didn't consider Denver a very poor city. Is it?

Mr. BROWN. Yes, there are substantial parts, particularly the west and north sides of Denver, that in fact, have very severe instances of poverty.

There it happens to go to the office of the mayor. I am not familiar with the Atlanta project, either when it started or the selection. Dana, you might want to expand.

Mr. RODGERS. The Atlanta project is administered by the senior citizen services of metro Atlanta. It is quite similar to the one in Denver. Both involve the concept of fixed-income counseling. What is happening in Denver might happen in a number of cities. In Honolulu, for example, the project might focus on the use of bilingual volunteers, and bilingual materials, so that older people who have come to this country with a different language can get the same kind of knowledge, the same kind of information as English-speaking citzens.

A good example is the work that we have done in Denver using bilingual volunteers to provide fixed-income counseling to older people and single heads of household whose native language is Spanish.

Senator INOUYE. If that's the case, why didn't you pick Los Angeles? I hear that that is the biggest mixture of people.

You have everything from Afghans to Vietnamese.

Mr. BROWN. These are merely demonstration projects. We are now advocating a national program which would permit us to work, in fact, with Los Angeles, among a larger number of other places.

But we now have the three demonstrations. The proposal is for a much larger program in the upcoming years.

As I recall, it's approximately 110 of those.

Mr. RODGERS. Yes, sir. We would propose to have 115 fixed-income counseling projects. All urban areas defined by standard metropolitan statistical areas would be eligible.

Senator INOUYE. Please proceed.

GOOD NEIGHBOR FUND

Mr. BROWN. The third part is a program called the good neighbor fund. We are requesting $8.5 million for that in 1980 and $1.5 million in fiscal 1979.

It has really one goal, which is to provide neighborhood groups some of the glue that is sometimes needed to hold them together. Funding would range from $1,000 to a maximum of $15,000. These are short one-time grants which would not be used to pay for ongoing staff or ongoing organization, but would be used for specific projects in the community, small development projects.

We have seen a number of those work.

We have had a minigrants program under another part of our legislation for several years. For instance, in New Mexico, the New Mexico Solar Association now with approximately 4,000 members, principally provides information to low-income individuals on how to build and maintain the low-technology solar devices in a climate that's very favorable to it.

That started with a grant of $4,000 to $5,000 from us, and that's all the Federal money that has gone into it. It's provided a tremendous benefit in the community.

Senator INOUYE. How do you assure yourself and the Congress that this will be a one-shot transfusion, as you say here?

Mr. BROWN. Both through legislation and regulation. I think Mr. Rodgers can bring you up to date on it.

Mr. RODGERS. A neighborhood organization might be interested in participating in the good neighbor fund program. They submit a program proposal to 1 of our 48 State offices. Our staff would sit down and review with the people asking for a grant what they were planning to do and check out its viability, in a quick and nonbureaucratic way.

Senator INOUYE. And you won't consider a second shot.

Mr. RODGERS. Not ordinarily for the good neighbor fund. Any organization is welcome to apply for a grant and we're not sending organizations away if they've once received money from us, but our goal is to reach as many organizations and as many neighborhoods as possible.

We would not, desire to enter into continuing relationships with good neighbor grantees that go on and on.

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Senator INOUYE. It won't be another CETA program, will it?

Mr. RODGERS. It's entirely different.

Senator INOUYE. I realize it's different, but in CETA the intent was rather clear that it was a program to train people who are presently unemployed. But it appears that in many cases, it is strictly to provide employment.

So the beneficiaries, feeling that it is an employment program, are insisting that we make it permanent.

Mr. RODGERS. Our goal for the Good Neighbor Fund is to give a little bit of seed money to help folks in the community who are trying to help themselves; not to come in and start some kind of a Federal program for them, but to give them assistance with something they have identified and are doing in the community.

Mr. BROWN. We are, however, simply not interested in creating a dependency relationship between any organization and ACTION. It's a one-time shot—the tool-lending library that they need to get the tools which then could be used over and over again for self-help. Housing improvement projects is a good example of that kind of project. We don't intend to pay the staff to do it. This is a one-time grant.

UNIVERSITY YEAR FOR ACTION

The final program area is one in which we are recommending a substantial reduction in funding in fiscal year 1980. We are requesting that university year for ACTION be reduced from this year's level of $1,724,000 to a level of zero in fiscal year 1980.

We are at the same time requesting that another of our service learning programs, the national student volunteer program, be increased to $873,000 in fiscal year 1980.

In fiscal year 1979, if I may just catch up on the history of it, we originally recommended zero funding for university year for ACTION. As a result of being on a continuing resolution, we are continuing to expend the funds on that program.

If there is congressional action prior to the fourth quarter, we are recommending that we will continue to expend the funds so long as Congress hasn't acted. But if Congress were to act, we would not fund any of the grants coming due in the fourth quarter of this year, and would not propose to fund any further UYA programs next year.

There have been criticisms of the program in the past. We did an evaluation of it. We funded some models based on that evaluation last year. We will evaluate those models this year. If those models actually work, we may come back to you in fiscal year 1981. But the administration's recommendation now is zero funding for university year for ACTION in fiscal year 1980.

The only funds that would be necessary would be some health insurance that we need to pay for volunteers that are already enrolled in the program and will carry over into 1980.

Senator INOUYE. Are you convinced that this university year for ACTION program is bad?

Mr. BROWN. Not bad. We are convinced there are serious problems with it. There has been very strong congressional support for it from a number of quarters, and we have tried to focus on the

problems with it, such as a lack of adequate stipending; lack of opportunity for the volunteers to go to class part time, which was required by regulations; a number of problems.

Last year we funded a study——

Senator INOUYE. Why do you propose to continue with this, notwithstanding action on the part of the Congress?

Mr. BROWN. We have only continued because now we're on a continuing resolution which requires us to continue, as we understand it. We would have to come up for an impoundment—a rescission, as I understand it—in order to discontinue funding during the first three-quarters of this year.

Senator INOUYE. Why don't you, if it's as bad as you're convinced? Why should you want to spend this money?

Mr. BROWN. Emerson Markham would be able to answer this.

Mr. MARKHAM. Senator, we discussed this with the staff in the House Appropriations Committee. What we need is a congressional judgment on this, and we would pose it here. The reduction now requested is part of this record for a formal decision by the Congress.

Senator INOUYE. In fiscal year 1980, did you request any money from OMB?

Mr. MARKHAM. No; we did not, sir.

Senator INOUYE. Then you are convinced it's not a worthy program.

Mr. BROWN. We are convinced—it's not on the top of our priority list for things that we would do. We think that service learning, as a concept, has terrific potential and, in fact, we are recommending an increase in funding for the national student volunteer program—another service learning program that we have.

Senator INOUYE. At a time when the highest priorities are being considered, and obviously, I think all of us here are well aware of the shortage of available money, I would think it would be wise on your part to come voluntarily forward like all other volunteers and say we give up the money.

Mr. BROWN. Well, we came up last year voluntarily and said we don't request any funding in fiscal year 1979. And, frankly, there is great lack of clarity in Congress about where we should go.

There is some very strong support for the program. And instead of proposing a formal rescission, we proposed it in this form, which is essentially a negative supplemental in the last fiscal quarter of fiscal year 1979 in that program.

Senator INOUYE. But if we don't act by then, you will spend it.

Mr. BROWN. We are currently expending funds, as the UYA grants become due, which is our understanding of the intent of the Congress, lacking other specific action from the Congress. If that is incorrect——

UYA RESCISSION

Senator INOUYE. You might make a big hit with the committee if you came in with a rescission.

Mr. BROWN. Mr. Chairman, if I might comment, I might make a big hit with some parts of some committees, and a very big mistake with other parts of other committees.

It's not clear where that would go at this point. And that's why we are requesting zero funding for 1980 in an effort to obtain a final resolution of the problem.

Senator INOUYE. Well, if you brought it up on a rescission, the decision will be made by Congress. We can accept or reject instead of waiting until the fourth quarter. And if the pressure of work makes it impossible for us to act upon your situation by the fourth quarter, you are going to be spending money that would be wasted as far as you are concerned.

So if you come up with a rescission right away, we can act on it right away.

Mr. BROWN. I wouldn't say, Senator, that our review is that it would be wasted. But there are other priorities that we are recommending for future expenditures.

Senator INOUYE. It's not a high-priority item, is it?

Mr. BROWN. It has not been on our agenda a high-priority item in its current form.

Senator INOUYE. It's not one that the President of the United States would support with vigor? [Laughter.]

Mr. BROWN. I think the administration's proposal reflects the adminstration's judgment about it.

Senator INOUYE. Then I say you bring in a rescission. Don't you agree?

Mr. MORAN. If you say so, Senator. [Laughter.]

Mr. BROWN. I would note last year that Senator——

Senator INOUYE. I was not a senior member of this committee. [Laughter.]

Mr. BROWN. I would note that last year, the Senate did pass authorizing legislation and specifically included university year for ACTION and recommendation of an authorization for university year for ACTION did pass in the Senate last year, although it failed in the House at the last moment.

So there is some judgment in the Senate, some positive judgment.

Senator INOUYE. We will give you another judgment.

NATIONAL YOUTH SERVICE

Mr. BROWN. I appreciate that.

Finally, in our supplemental request, there is a request for funding a study of the concept of a national youth service, which would require $2.7 million. That is fundamentally research and demonstration, principally research money.

And Mr. Derryck, who is the Deputy Director of the Office of Policy and Planning, can talk about that in detail.

But you may have noted that several days ago a national study that was conducted by the Potomac Institute and chaired by Harris Wafford and Jacquelyn Wexler, came out with a major study recommending consideration of a national youth service. The administration has been looking at it now for approximately 18 months, and this was originally recommended in our fiscal year 1979 budget request.

We are currently conducting in a cooperative program with the Department of Labor, a demonstration program on youth service.

Essentially, the notion behind it, Senator, is that this is not strictly an employment program, but rather, one which utilizes a large number of people who would like to find a way to serve in this society for a year. From the standpoint of the young people involved, from the standpoint of the society in terms of people having some opportunity to give of themselves, not simply to take from the society, it is a tremendous opportunity.

It has been discussed since the turn of the century when William James wrote "The Moral Equivalent of War." Discussions since have focused on whether it should be compulsory or voluntary, based on educational systems or in the community, for men only, or for men and women.

It is a number of those series of questions that we would propose this next year to look at: The cost factors; the likely participation; the forms of administration; and so on.

And that's what's being recommended.

IMPROVED MANAGEMENT

Finally, I would simply like to say at a time when we are all concerned about what happens in the budget, we are determined to manage our programs economically.

We believe, as the President said in his state of the Union, that it is a myth that we need to choose between compassion and competence.

We don't accept that myth.

We run our programs, I think, economically and carefully. We have instituted a number of management improvements which range from the first GAO approval, approximately a year ago, of our accounting system in the history of the agency, to revamping our recruitment by automating more of that system so that recruiters can spend time with volunteers instead of pieces of paper.

We have a number of management improvements which we are quite proud of.

In short, we come to you today proud of what the Agency has been able to do, convinced that in a number of programs, we have opportunities that are unique because they really call on the spirit of the people to contribute. They are not simply more Government programs that tend to take away from people and sometimes diminish people's own capacities to act, but are programs which encourage support and enhance the capacity of people to do for themselves.

It is of particular concern that on the domestic side, programs focus in areas of poverty.

We are convinced that poor people, so often stereotyped as people who don't want to help themselves, are in fact among the most self-reliant people in our society.

The fact that they survive at all in this society is testament to their capacity and ability to be self-reliant.

We believe, given a little bit of opportunity and a little bit of funding, that we can make it possible for more people to get out of that cycle, and, in fact, to become independent contributors to the society.

That's what we intend to do.

Senator INOUYE. Thank you very much, Mr. Brown.

In reviewing some of your promotional material and recruiting ads, I think the average American gets the impression that it's a program where individual volunteers help some poor family, it's a direct service to clients.

But I notice that increasingly you are recruiting volunteers to serve as organizers or to help organizations become self-sufficient promotors, as such.

What is the basis of this decision?

Mr. BROWN. Well, let me say two things.

First, the vast preponderance of all volunteers are really people who provide direct services: the Foster Grandparent working with the child, the Senior Companion working with an adult with special problems, Retired Senior Volunteer Program volunteers, many of them—and by far the largest number provide direct services and that accounts for probably 85 percent of our volunteers.

Senator INOUYE. Seventeen.

Mr. BROWN. Those three programs—the Older American Volunteer programs probably account for 70 to 80 percent; the largest bulk of volunteers providing direct services are there.

VISTA volunteers, on the other hand, have a unique opportunity, not simply to help, for example, by taking care of a child in a day care center, but by helping to organize a day care center in which parents can themselves take care of children and break that dependency on the VISTA volunteer. The hope is to build institutions that survive after the volunteer leaves.

In many ways the basis of the judgment goes back to the very earliest notion of the VISTA volunteer as a catalyst, as a person who helps pull various things together to create a project which will live past the time of the volunteer in the community. We continue to believe that that's the best way to use our resources.

Ms. Tabankin can probably talk specifically about programs——

Senator INOUYE. I just ask you to put that on the record. Don't misunderstand me; I happen to be in favor of it. But it hasn't been, I believe, explained sufficiently.

Ms. TABANKIN. I would like to give an example of a project that we work with in Mississippi, with the Sharkey County Neighborhood Improvement Association. Our role there has been recruiting local volunteers to work for the neighborhood association which will lay out a master plan for the neighborhood, because most of the residents on the minority side of town, black side of town, had no street lights, no sewers, no municipal services, while people on the white side of town have full services.

Now, we could have approached it in several ways. One of the things that needed to be done was to actually count how many street lights, how many sewers, how many paved roads there were, so that a court document could be prepared, if necessary, to challenge the city on its use of tax funds.

We could have gone in two directions: We could have gone and actually had our volunteers do that work directly, or we could have had our volunteers organize young residents in Sharkey County to

do that for themselves. We felt that a much greater impact would be made if the volunteers organized the people within Sharkey County to do that service for themselves. That knowledge and skill is now being shared with 11 other counties in Mississippi who face similar problems.

Mr. BROWN. It seems to me, Senator, one of the constant problems about this is that organization, in some people's minds, necessarily means confrontation.

Senator INOUYE. Troublemakers.

Mr. BROWN. Troublemakers. In most cases that I have ever had any involvement with, the experience has been that organization tends not to create confrontation but to try to build a cooperative environment.

If we were interested in confrontation politics, as some people have charged, there would have been a good deal of it in the last couple of years, and there hasn't been because we're not interested. We're interested in building cooperative organizations for people to help themselves. It's a straightforward notion.

Senator INOUYE. You must have gone into hiding. [Laughter.]

Is there any way that you can assure this committee that VISTA volunteers are not being used to substitute for regular employees of agencies? We have received a few letters suggesting that this is being done.

Mr. BROWN. There is a statutory prohibition which we intend to enforce firmly, and it is written into our regulation.

Ms. TABANKIN. One of the problems we faced when we entered this administration in early 1977 and it was brought to our attention by this committee last year, was the fact that volunteers were serving in staff roles in many public service agencies—libraries, welfare departments, prosecutors' offices, public defenders' offices, the list goes on and on.

That was never our intention. Often volunteers were performing a labor-displacement role for career civil servants that were not being hired by those public agencies.

We immediately moved to change that, and we directed that no longer could placements be in any staff-assigned roles.

Now, the problem that you have is that when you get into a neighborhood group and you have somebody doing the job of a fundraiser for a neighborhood organization, sometimes people think that that's a staff role. When talking about staff roles, we are talking about welfare departments, libraries, and major social service agencies which were using VISTA as cheap labor.

It was because of this committee and because of our own analysis last year that we moved very quickly to end that.

Senator INOUYE. It's not being done now?

Ms. TABANKIN. If it is, it's only because it's an error, and it should be caught by agency monitoring systems. I don't know of any cases right now.

VISTA CAREER DEVELOPMENT

Senator INOUYE. Your project sponsors for VISTA are required to prepare career development plans; is that correct?

Mr. BROWN. For the low-income volunteers.

Senator INOUYE. From low-income families.

Do you have any followup?

Ms. TABANKIN. Senator, 15 percent of our volunteers come from low-income families and are low income themselves. One of the original plans we had prepared for fiscal 1979, was career development, but because we were kept on a continuing resolution, and the level of inflation required us to raise the subsistence allowance of volunteers, there was no ability to either expand new projects or to promote career development training or anything else.

Mr. BROWN. But our proposal to the committee would permit us to expand opportunities for career counseling for low-income volunteers.

Senator INOUYE. You don't have that now?

Ms. TABANKIN. No, but we do have a strong commitment to do it as soon as the money comes in.

Mr. BROWN. We initially requested, nearly 18 months ago, the funds to do that. And we would anticipate doing that as soon as possible.

VISTA TRAINING

Senator INOUYE. What sort of training do you have for VISTA? Do you have any uniform training program, the length of time involved, hours?

Mr. BROWN. There are some elements of it that are common; for instance, with regard to the VISTA regulations and prohibited activities and so on. But beyond that, the training, I think it is fair to say, has not in the past been very good. The proposal which we have before you would increase the training substantially.

Senator INOUYE. It will be relevant to the volunteer activities?

Ms. TABANKIN. Yes, it will.

RETIRED SENIOR VOLUNTEER PROGRAM

Senator INOUYE. Can I now go to your RSVP programs? You have this retired senior volunteer program and senior companion program, and they have been instrumental in making available direct services such as home health, home delivered meals, outreach and other support services. It has been said that many projects providing such services would not be in operation even on a limited basis without volunteer support.

Is that correct?

Mr. BROWN. Yes, sir. That's what the sponsors tell us. That's what our surveys of the needs in the field tell us.

Senator INOUYE. So you think you need more volunteers for these services?

Mr. BROWN. At this point, the increase that we are requesting is in fact simply to bring the already existing program up to where we believe it can and should be. It essentially provides some increments for improvement in transportation stipends and so on, not for increases in volunteer numbers.

Senator INOUYE. You told us on the RSVP program you would try to get your volunteers from those who are most in need. How successful have you been?

Mr. BROWN. Ms. Kelley?

Ms. KELLEY. Well, actually, the statute for RSVP indicates that it is not a poverty program and that income level cannot be used for a discriminating factor for determining who will give. There are income eligibility requirements for the Foster Grandparent and senior companion programs and all do encourage the project directors to chose those most in need when selecting volunteers. What we have tried to do is to get the RSVP program more in place where there are more minority participants, and to see that the program has impact on the poor, whether it is recruiting volunteers from the poor specifically or working with them. We have encouraged project directors to do that. But the point is not to exclude anyone who wants to participate in the RSVP program.

LOW-INCOME AND MINORITY GROUPS

Senator INOUYE. Have you been successful in shifting your program to low-income and minority groups?

Ms. KELLEY. Well, as I said, we have not made a direct effort to recruit the poor but we have made a successful effort to better serve the poor. There has been significant progress in minority recruitment, in one year the number of minorities has increased from 14 to 16 percent.

The two poverty programs FGP and SCP, are designed to recruit low-income people. Both have a high proportion of minorities because minority people who are old have a doubly good chance of being poor, if one wants to call that a good chance.

Mr. BROWN. If I might add, Mr. Chairman, if I'm not mistaken, that in spite of the fact that in America approximately 11 percent of people over the age of 60 are minorities, RSVP this year is about 17-percent minority.

Ms. KELLEY. Sixteen and moving up.

Mr. BROWN. From Foster Grandparents, about 35 percent of the volunteers are minority volunteers, and 38 percent of the senior companion program volunteers are from minority groups. This is a substantial representation, and I think a positive sign in terms of what the program can do to serve people of minority backgrounds.

YOUTH COMMUNITY SERVICE

Senator INOUYE. Your agency budgeted $8 million each in fiscal years 1978 and 1979 to launch an urban service corps in Syracuse N.Y., where about 2,500 people were supposed to serve in a whole host of activities. Volunteers have been trained, so I have been told, but not yet assigned to their projects.

What will this program achieve?

Mr. BROWN. In fact, this is a joint agreement with the Department of Labor in which they provided $8 million in fiscal year 1978 for a demonstration program that ACTION administers. There are approximately 700 volunteers serving now and we expect to have about 1,200 by March of this year.

Dennis Derryck, the deputy director of the office of policy and planning, can provide any kind of detail.

Mr. DERRYCK. There are 700 volunteers since the project began in March 1978. By March 1979, there will be 1,000 volunteers placed

in Syracuse and an additional 200 volunteers will be placed in a rural demonstration outside of Syracuse by June 1979.

The project was designed to place a maximum of 1,450 positions, volunteer positions in Syracuse. This figure was the best projection of the maximum number of youth who want to serve in a community of this size. The figure of 1,000 represents the saturation level for the city of Syracuse.

The unused funds, the funds that will be left over from not filling 1,450 slots, will be shifted to a rural demonstration within the State of New York.

Mr. BROWN. I might add other elements about the program. The attrition there seems to be relatively low, about 12 percent, which compares very favorably with Peace Corps and VISTA. There seems to be a real commitment on the part of the people who are in it.

There are approximately 300 project sites that are developed now. The volunteers themselves, instead of being assigned simply to a site, are able to select from a number of sites. So they have a little bit of leverage in the process, which means that when they make the choice, it's a conscious decision to work in that particular place.

Senator INOUYE. So you have 700 assigned and another 700 waiting to be assigned?

Mr. DERRYCK. We have positions for an additional 300 youths, and we expect that those positions will be filled between now and the end of March.

Senator INOUYE. So 1,000?

Mr. DERRYCK. 1,000 within the city of Syracuse. Syracuse is a demonstration program that tests a number of different concepts. It is the feeling of the Department of Labor at this point that the experience gained in Syracuse should be utilized to establish a rural project within the State of New York.

Senator INOUYE. How many people reside in Syracuse?

Mr. BROWN. Approximately 280,000.

Mr. DERRYCK. Yes.

Senator INOUYE. So it's 1 per 300?

Mr. BROWN. Something like that.

Mr. DERRYCK. The number of eligible youths between the ages of 16 and 21 for the program is approximately 6,000. These youths are unemployed, underemployed, and out of school. So essentially, we are tapping into probably one in six.

Senator INOUYE. I'm just curious: How was Syracuse selected for this experiment?

Mr. BROWN. It was a competitive national process.

Senator INOUYE. You mean the cities submitted bids or proposals?

Mr. DERRYCK. Fifty-five cities were chosen as possible demonstration sites. An outside panel of experts developed a series of selection criteria, and finally narrowed the number down to six. Site visits were made to each of the cities. Syracuse came out on top primarily because it was an isolated labor market.

One of the major concepts we wanted to test in Syracuse was what would be the demand for such a program in a city, and because of the isolated labor market situation and the fact that all

the media within the city of Syracuse is generated within the city of Syracuse, Syracuse turned out to be the ideal city for the demonstration.

HOUSE INVESTIGATION

Senator INOUYE. How do you answer the charge made by House Investigations staff that VISTA volunteers, especially those in national grants projects, have been engaging illegally in political activities and union organizing?

Mr. BROWN. Senator, I would like, if I may, to look at the background of that. First let me answer your question directly. In looking at approximately 4,000 VISTA volunteers across the country, there were a very limited number of, and we believe isolated, examples of either union organizing or political activity. In a substantial part we found and terminated those volunteers or corrected the situation. It wasn't as a result of the House Investigations Committee that those were found. In most cases, we called them to the attention of the investigators and said, this is what we propose to do about it.

The draft report up to this point has been released without the benefit of agency comment, which is normally solicited by the committee. In fact, I was first solicited for comment from a newspaper reporter who called to say that he had a copy of the report before the committee had transmitted the report to me.

It is a draft document, a draft committee document that the agency has not yet commented on.

Senator INOUYE. I think the committee is playing the administration game. We usually get our information from the press also. [Laughter.]

So we are tit for tat now.

Mr. BROWN. It was the House Appropriations Committee. [Laughter]

But if I may——

Senator INOUYE. How many were involved? Is it a big thing?

Ms. TABANKIN. Three projects—well, there were two projects that were found to be doing union organizing, one project where there were, I think, two volunteers who were assigned to a community organization in Rhode Island, who also wrote a newspaper pamphlet with the Rhode Island Workers Association for the jewelry workers.

Our inspector general found it in an audit and reported it to me. I immediately terminated the project, and reassigned the volunteers to another project activity.

There was another project in New Orleans, La., where VISTA volunteers who were working in publishing, again, a newspaper, that were encouraging domestics and household workers to organize themselves.

Those were the 2 examples in the entire country, out of nearly 750 projects, and 4,000 volunteers, where volunteers were found to be doing union organizing.

On the political activity charge, to the best of my knowledge, they found one example of one volunteer who was distributing literature because the person they were working with had asked

them to do that, and there was another volunteer at the same project who drove somebody to the polls once. Those were the charges and that is what led to the headlines released from the investigative report.

Senator INOUYE. Welcome to the club. [Laughter.]

ALLEGATIONS AGAINST ACTION

Mr. BROWN. If I may comment, Senator. Just to put it in perspective, a year ago a series of allegations were raised by 1 member of the Appropriations Committee in the House, 21 allegations at the time, in regard to a whole series of purported activities: Fraud, conflict of interest, concerns about a whole wide range of things.

The investigative staff started down the track laid out based on those 21 allegations in the form of questions. Of the 21, it was found that 17 didn't even have sufficient substance to be reported on. After six people for 6 months spent their time digging all over the place, there was no substance at all to it. Yet, of course, there have been large newspaper stories last spring saying allegations of fraud, in this, that, and the other things.

All of the serious charges—fraud, conflict of interest and others—simply turned out not to be true: No fraudulent use of funds, no illegal activities which we had not, in fact, looked at and terminated, no findings of ethical violations. Prior to the time that it was reported as a committee document, the draft report was released to the press without the benefit of being a balanced document which included the agency's response.

So what we got at the end of December, or the first weeks of January, was once again a set of stories about allegations being made, about this, that, and the other things, resulting from the findings.

It is absolutely correct to say there were political activities on the part of VISTA volunteers. It needs, however, to be looked at in perpective. If someone picked somebody up and drove them to the polls once, and we found that person who drove one person and terminated that activity, that cannot be considered a pattern and practice of political activity.

Senator INOUYE. Is that considered illegal, to drive somebody to the polls?

Mr. BROWN. It is. It's in violation of our statute. We are not permitted to engage in either nonpartisan activity of registration, voting, or taking anyone to the polls. I know it strikes some people as bizarre that it should violate the statute, but it does. That is the basis of that whole series, of newspaper articles which, of course, tend to repeat themselves.

Senator INOUYE. So to the best of your knowledge, seven citizens were illegally engaged in union organizing?

Ms. TABANKIN. [Nods affirmatively.]

Senator INOUYE. And two citizens were involved in illegal politics?

Ms. TABANKIN. Right.

Senator INOUYE. Which included driving someone to the polls on one occasion?

VISTA NATIONAL GRANTS

Ms. TABANKIN. Right, and passing out literature on the other.

Now, there is one other matter which I think we should bring to your attention that fits into that category. There were some problems with a grantee that did not have a separate method of accounting for a political action arm and a community organization arm. And they collected dues for their memberships and they knocked on doors.

This was a grant called CORAP, community organizing research and advocacy program, and CORAP was affiliated with an organization called ACORN. ACORN did not segregate out its new political action funds or its political action activities from an organization it was affiliated with, which was known as the ACORN political action committee.

Our inspector general and our general counsel found that that was a violation of the Domestic Volunteer Service Act, that it should be segregated, that the political activities remain within APAC and that no VISTA volunteer activities could be used in any way to accrue to the benefits of the political action division of that branch.

RESPONSE TO CHARGES

Mr. BROWN. The major point to be made however, about that one was that it is again something that we found, negotiated a determination of that activity with the organization, and, in fact, in the case of that particular organization, they are no longer a recipient of a national grant. That puts that whole event in its context.

I would like, if I may, to submit a copy of our responses to the sort of informal charges. Since the press has given us a document, I would like to be able to at least submit for the record our response on the political and union organizing, in a more formal way.

Senator INOUYE. Without objection, it will be made part of the record at this point.

[The information follows:]

RESPONSES TO CHARCES: POLITICAL ACTIVITIES OF VISTAS:

INTRODUCTION

Congressman Michel alleged last spring that ACTION was intending to use its volunteers as a political force in this country. The Investigative Report contains absolutely no evidence to support this charge. It does not find any patterns of political activity of volunteers, or any intent on the part of program officials to have volunteers become involved in political activity.

The report does indicate four isolated instances where volunteers became involved in prohibited activities. The fourth had ceased by the time the agency became aware of it. The attached pages are a detailed account of the facts surrounding the investigator's findings in this area. The investigators looked at six out of a total of 12 national grantees. Out of these six grantees, who together were allotted approximately 300 VISTA volunteers, the investigators found the following prescribed political activities undertaken by VISTAS:

INVESTIGATION FINDINGS

I. Association of Community Organizations for Reform Now (ACORN):

1. Two ACORN VISTA's in Arkansas performed prescribed activities -- made appointments for ACORN's political committee to meet the candidates; sent flyers endorsing a slate of candidates to neighborhood centers for further distribution. (Page 51-52, Report)

FACTS

I. ACORN:

1.A. On one occasion, when the APAC person who regularly picked up the flyer didn't show up, a VISTA volunteer did carry the flyers from the ACORN office to the APAC person while on his way to another activity. He did not bring it to his neighborhood group leaders for further distribution as the report states.

B. The charge of scheduling appointments for ACORN's political committee (APAC) was only done once, at a night meeting, by one of a group of three VISTAs. It was not a routine nor major part of the VISTA's work.

INVESITGATION FINDINGS

I. ACORN:

2. ACORN VISTAs in St. Louis, Missouri, routinely engaged in taking ACORN groups to the state capital (Jefferson City) to meet legislators and lobby for particular bills.

FACTS

I. ACORN:

2. One VISTA did in March 1978, drive a group of people to the state capital so that they could express their opinions to the legislators on a generic drug bill. The VISTA did not lobby for the bill in any way. She was involved in a low income neighborhood group that was directing its attention to the problem of redlining, and merely drove them to the capital so that they could express their opinion. Although the VISTA's activities could not be fairly characterized as "lobbying", the Missouri State Director in June 1978 prohibited any such future activity so as to avoid even the appearance of improper conduct and because such activity was outside the geographical boundaries of the VISTA's assignment.

INVESTIGATION FINDINGS

I. ACORN

3. In New Orleans, five VISTAs were actively working with the HWOC (Household Workers Organizing Committee), a United Labor Organizations subsidiary reporting directly to the ACORN chief organizer, until late this past spring when the ACTION Office of Compliance directed that the assignments be terminated. Also, there are no safeguards, of which the Investigative Staff is aware, to prevent membership dues solicited by VISTAs from being used for labor organizing.

FACTS

I. ACORN:

3. Five VISTAs in New Orleans were involved in an organizing drive of the HWOC. They distributed material of the Committee, did some door-knocking, and recruited household workers for the February 28, 1978 meeting of the HWOC. Although such activities did involve a substantial amount of the VISTA's time, it's duration was not long. In February 1978 a VISTA at New Orleans notified ACTION of the activities occurring in New Orleans. As a result of such information an audit was undertaken a month earlier than scheduled by the Office of Compliance. On April 3, 1978 the Assistant Director for Compliance notified ACORN to cease and desist the activities.

Concerning the use of ACORN dues collected by VISTA's; prior to the issuance of the final audit report on June 3, 1978, ACTION and ACORN had agreed to take steps to ensure a complete separation between ACORN and its political arm APAC. The Agency's position was a matter of record prior to the end of the investigation.

II. NATIONAL PIRG:

As stated by the investigators in their report: "There is no evidence of any direct VISTA Involvement in the effort." (Lobbying)

III. National Association of Farmworkers Organization (NAFO):

INVESTIGATIVE FINDINGS

1. While NAFO is not a labor organization, responsible concern has been expressed about the possibility of VISTAs assigned under the grant getting into union organizing activity.

In recognition of the potential problem, ACTION's Office of General Counsel just recently issued guidelines outlining permissible activities for VISTAs in the context of the NAFO grant. It is unlikely that every actual situation will fit "neatly" into one of the several categories of organizing activity described. Further, if the will to enforce the guidelines is lacking, enough room for judgment is allowed to rationalize a wide range of borderline labor organizing activities involving job-related problems.

FACTS

1. NAFO:

1. NAFO is a nonprofit unbrella organization whose members are farmworker groups across the country. None of NAFO's members are labor organizations, and NAFO does not take part in any union organizing activity. The VISTA's assignment is to help create an organizational structure within the crew which can address the myraid daily problems facing the farmworkers.

In order to insure that their activity will not enter the prescribed area of political or union organizing activities the General Counsel's Office's guidelines for the grant's operation were drafted. The guidelines restrict any VISTA involvement in activites involving an established union, or activities relating to the terms and conditions of employment. Only those activities that involve non-work related issues (food stamps, education) or those that, although job related, may be referred to the proper agency for resolution, are appropriate for VISTAs. VISTAS shall not involve themselves in issues that must result in direct confrontation with the employers on issues germane to their employment.

Contrary to the report, ACTION does not assume that NAFO will act in bad faith in their implementation of these guidelines. However, the availability of ACTION for both supervision and guidance throughout this grant should suffice to quiet the potential problems foreseen by the investigation staff.

V. MIDWEST ACADEMY:

INVESTIGATIVE FINDINGS

1. The investigation found two VISTAs involved in union organizing activities in Rhode Isalnd.

The report states that subsequent to their visit, ACTION's Office of Compliance reviewed the project and issued an order to discontinue such use of volunteers.

FACTS

1. MIDWEST

1. The Rhode Island Workers Association in Providence, Rhode Island (RIWA) has two VISTA Volunteers assigned to it through the Massachusetts Community Center, Inc., which is a recipient of VISTA's under the Midwest Academy grant. One of these volunteers was working on a project with the Jewelry Workers Organizing Committee (JWOC) in which he wrote a newsletter with an article critical of working conditions in the jewelry industry for the JWOC and distributed it at jewelry plant gates and at the unemployment office. However, the volunteer spent most of his time answering telephone calls and helping people with unemployment matters, food stamps, health care and associated problems.

Although the Volunteer claimed he did not associate with union efforts in any way, the newletter he wrote and distributed contains numerous references to the low wages and substandard working conditions of jewelry workers in the Providence area, the need for workers to join together, and, as an example of such group activity, a description of a union election at one plant. According to the travel report submitted by the investigators, they visited Rhode Island on August 20 to August 27. Raul Rodriguez, Assistant Director for Compliance visited RIWA on June 29, 1978; received an opinion from the General Counsel on August 22, 1978 stating that the activities were prescribed, and ordered the activities to cease on September 1, 1978. Thus, two months prior to the investigator's visit, ACTION had themselves investigated the matter and four days after their visit had ordered the activities stopped.

V. CONCLUSION:

The investigators did not report any findings of VISTA's involvement in political activity or union organizing in either National Council of La Raza or National Center for Urban Ethnic Affairs (NCUEA). Thus, out of over 300 VISTA volunteers and 6 projects, the maximum amount of prescribed conduct that could be found was 6 short-term full-time involvement, and three who infrequently performed prescribed work. To conclude from such a small number of incidents that the National Grants program suffered from "poorly trained supervisors and inadequate monitoring" is hardly justifiable. These incidents are insignificant when viewed in the total context of VISTA activities and the extent of prohibited activities. The Agency's conduct in uncovering and stopping the activities is to its credit and speaks well for its monitoring systems.

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DECENTRALIZATION

Senator INOUYE. On the ACTION organization, you have State offices; is that correct?

Mr. BROWN. We do.

Senator INOUYE. And it has been your intent to strengthen these offices?

Mr. BROWN. It has been.

Senator INOUYE. Why is it, then, that the national grant program is run from Washington and not supervised by State offices?

Mr. BROWN. In fact, the States are intimately involved. Ms. Tabankin may be in a better situation to respond.

Ms. TABANKIN. The national grant project was designed when we first joined the ACTION Agency as a way of showing this administration's commitment to working in a high-impact area, using the methodology of community development and community organization to try and effect single kinds of problems such as nursing home reform, economic development, co-ops in multiregional programing across the United States.

We didn't want to have recipients having to negotiate for 1½ years with different ACTION officials in 48 different districts. So, organizations that lent themselves to a single-focused approach were funded. We funded 13 of them in the first 2 years. These set forward the image and the actual example of the kind of programming this administration was interested in doing.

In the second half of the year we started refocusing the grants much more toward a specific program area. The State directors were very involved right from the start in giving their comments, in monitoring the projects, and in sending us written evaluations of the projects.

Although there was a lot of initial resistance on the part of State directors, many have now picked up local components of these projects and vigorously supported renewal of these grants

CRITICISM OF NATIONAL GRANTS

Senator INOUYE. OK. National grants programs under VISTA have been criticized for funding too many projects lacking the potential for self-survival at the end of VISTA support. Is this a valid criticism?

Mr. BROWN. John.

Mr. LEWIS. Mr. Chairman, I don't think it's a valid criticism. One of the grants we made was made to an organization based in the South called the "Federation of Southern Cooperatives," working in 11 Southern States. This organization is working with people that are at the very, very bottom. Some of the volunteers are working with sugarcane plantation workers, people without sewers, without any of the basic necessities of life, really, at the very, very bottom of American society. I think there is just no basis for this accusation.

Senator INOUYE. The accusation was that this program of VISTA has been funding projects lacking the potential for survival at the end of VISTA support.

Mr. LEWIS. Let me just go on to say, Mr. Chairman, when we make a grant to a national organization or to a regional organiza-

tion, when a VISTA volunteer goes into work, he doesn't go in there to be a leader or be a spokesman. Long after that VISTA volunteer is gone, the organization that was started will still be there. They create viable institutions, viable community organizations, and neighborhood groups.

Ms. TABANKIN. I would like to add specifically to that grant which John is discussing. They are working with the actual building of co-ops, buying co-ops, marketing co-ops through 11 Southern States right now. Those co-ops are not going to fold and disappear.

What we have done is take 112 low-income sharecroppers as VISTA volunteers. They are being trained in co-op development and management in 11 Southern States. In 3 years, after that project has been closed down, those co-ops will be existing. I understand now that wives are forming sewing co-ops and quilting co-ops and will, I hope, have seriously changed the economic base of the lives of those co-ops and of the members of those co-ops.

COMMUNITY COMMITMENT

Senator INOUYE. Do you see a community commitment to support these VISTA programs when the Federal money runs out?

Mr. BROWN. Absolutely. Last year, on the average, each volunteer generated approximately $24,000 in additional community resources to support the very projects on which they were working, and, on the average, had 15 non-VISTA volunteers with whom they worked.

If I might say about the previous question, one of the curious things is that it's one where the only requirement for building self-sufficiency is in our own regulations. That's a standard we established and one we will strive to live up to. It is not one we will always live up to, probably. Some of those things will fail. That's the cost of building new institutions, but it is certainly not a program requirement. But the investigation report, at times, makes it sound as if we were violating the law, when all we did was not in every instance have a success.

PROJECT DEVELOPMENT AND EVALUATION

Senator INOUYE. Speaking of your own regulation, have you approved funding for national grants projects without prior onsite evaluations?

Mr. BROWN. Not to the best of my knowledge.

Ms. TABANKIN. Well, that's a difficult question. National grantees were all directly negotiated with. Not each of the subcomponents of each grant—some of them have as many as 20 to 50 subcomponent parts—were visited. Most of them were. The clear majority of them were. They all had to submit very strong program documentation.

We did review, through a program review panel and through a State director, every single one, specifically on paper and, in most cases, they were site visited by State program staff.

Senator INOUYE. But there are some without onsite——

Ms. TABANKIN. There were some that did not have actual site visits.

Senator INOUYE. And you don't think the onsite visits are necessary?

Ms. TABANKIN. I think they would have been helpful if we had more travel money available.

Senator INOUYE. Why do you need vast travel money when you have State offices and regional offices?

Ms. TABANKIN. The travel would have been from the State office. It was a matter of a lot of work being done by a few people with not enough money at that point. We are on a continuing resolution, and there was not a lot of money.

Mr. LEWIS. Also, when you are working with low-income groups, grassroots community organizations, and neighborhood groups, there is the need for people to get out of the State office, the regional office, and Washington.

One of the things we have been encouraging on the domestic side in the past few months is for people to get out of Washington, get out of regional offices, get out of the State offices; get out and see what people are doing.

Senator INOUYE. That's a good idea. [Laughter.]

Mr. BROWN. If I may comment. The real problem presented by the continuing resolution is that on the domestic side of the Agency the last budget left by the prior administration was a zero recommendation for VISTA. As a consequence, a number of programs had already begun to phase down and the support budget that would go along with it had concurrently been cut. Consequently, we are caught in the situation where you don't need to have travel money if you're not planning to visit anything because you're not planning to have any of the programs. When this administration came in with a commitment to rebuild the program, we were stuck, and, to a great extent still are, with the previous travel budget.

Ms. TABANKIN. There is now money in the budget request for at least two site visits a year to every project in the field. That was made, and other things had to go to make sure that that was done. But that is now a requirement.

PERSONNEL

Senator INOUYE. In the administration of the Agency, you have Foreign Service offices and civil service offices. They are different classifications?

Mr. BROWN. That's correct.

Senator INOUYE. Now, what about your support staff, are they all civil service?

Mr. BROWN. They are principally civil service, at this point. We have a Foreign Service appointing authority, as you know, under the Peace Corps Act. The Office of Personnel Management recognizes—and the Civil Service Commission before it recognized—that there is a clear authority there to use in circumstances where the person is partially or fully supported by the Peace Corps, to use the Foreign Service appointment authority. In large part we have attempted to avoid using that. We have not abused that authority in any way. But there are instances where we have used the authority.

Mary Leyland, who is the director of the Office of Administration and Finance, is here and can comment on that.

Senator INOUYE. I am just curious to know how you juggle all these different classifications of funds.

Ms. LEYLAND. Pretty well, I think. [Laughter.]

Investigators, in fact, went at that very well and ACTION came out perfectly right. We have two appointing authorities. We have a very good director of personnel.

I might add parenthetically, under both of our appointing authorities we have a merit promotion system and both of those merit promotion systems, have been approved by our union.

I can expand on it if you wish.

The Foreign Service system provides one benefit to those individuals who might serve the Peace Corps, and that is that an individual whom we hire under that authority—I am going to get into some bureaucratese here—does not have to have civil service status. That means, in English, that the person may never have worked for the Federal Government before. To work in the general schedule or regular civil service jobs you must have that so-called status. That's the difference. Otherwise, the competitive procedures line up.

I think we've done a good job.

Senator INOUYE. And you are able to carry out equity as far as the pay is concerned? Equal pay for equal work?

Ms. LEYLAND. On the basis of the investigation there are no inequities in pay. They line up. The other benefits are the same. There has never been a reduction in force.

Senator INOUYE. Thank you.

I will call a short recess.

[A brief recess was taken.]

INCREASES REQUESTED

Senator SCHWEIKER [presiding]. We will reconvene the subcommittee, please.

We just reconvened the hearing, and I think there were some questions that the committee staff had prepared that have not been gone through.

So we will go ahead with those questions.

The President has decribed his budget request for fiscal 1980 as lean and austere and your budget request for 1980 is up 43 percent over your current funding level.

What is the basic rationale for so large an increase in 1 year?

Mr. BROWN. Senator, the recommendation for the administration for our budget is up approximately 25 percent over this year's request level, including the supplemental, which we have requested, and up slightly less than 25 percent over our initial request for last year.

So while the figures appear quite startling in percentage terms as compared to the current resolution, they are up only 25 percent over last year's request.

The fundamental rationale from the administration for that request is the judgment that it is a fine, solid program, and that volunteer programs are very cost-effective. In an inflationary time,

anything the Government can do to stimulate and encourage volunteer action provides value to the economy at relatively little Federal cost. That really is the underlying assumption.

Senator SCHWEIKER. How much of this proposed increase is currently authorized?

Mr. BROWN. We are on a continuing resolution and so none of it is, in fact, currently authorized except the Older American Volunteer programs which were authorized last year.

We also have a major request in for a new program, which is $25 million of the increase.

So that it isn't such a dramatic increase in already existing programs; it's recommendations for three new programs, for a total of $25 million, which accounted for the bulk of that large increase.

INVESTIGATION CRITICISM OF VISTA

Senator SCHWEIKER. You have already discussed the findings of the congressional investigation, as I understand it, in preceding testimony, and you dispute the extent of the problem in VISTA.

What assurance does this committee have that the program will be, or is, well run, and how can we justify expanding VISTA based on this report?

Mr. BROWN. Mr. Chairman, I would not ask you to expand it based on that report. I would ask you to expand it based on that report, our response, and a balanced look at where VISTA is today.

We believe in management terms, that we have pulled together a solid operation. We believe that the fundamental dispute, in fact, is not a dispute about management at all. In fact, it has been substantially blown out of proportion.

We have spent a few minutes simply saying that in the case of union activity and politicization, which are two of the most damaging charges of volunteers going beyond their authority, what we are talking about is isolated instances of no more than 10 volunteers today involved in those activities.

That is out of a total of more than 4,000 volunteers. It is not a widespread, pervasive problem. And in the cases where it existed, we found it, fixed it, and called it to the attention of the investigators, in most cases, not vice versa.

MIDWEST ACADEMY

Senator SCHWEIKER. The congressional investigation was particularly critical of the so-called national grants projects in VISTA, which are supervised by your headquarters staff. One project, in particular, which has received more than $500,000, was cited for using highly inappropriate handout materials to VISTA trainees.

Let me read you an excerpt:

> The third principle of direct action and organizing is an attempt to alter the relations of power between people's organization and their real enemies. The enemies are often unresponsive politicians, tax assessors, utilities, landlords, government agencies, large corporations, or banks. Give people a taste of blood.
>
> Push your opponents so hard that you see them squirm. Your power is your ability to hurt the target or withhold something the target wants. The hurt can be immediate, as in a strike or a boycott, or it can be potential, as when bad publicity will cause a politician to be unseated.

You should always know exactly what kind of power you are using and how well it works.

Stunts can help. If, for example, a politician will not meet with you, tape a sign across his office which says, "This office is closed to the public." If someone won't come in and debate, put a dummy in the chair and debate that for dramatic effect.

Is this material still being used for VISTA training and how is it that it was used initially?

Mr. BROWN. Mr. Chairman, that is not an ACTION Agency document. That material is no longer being used for VISTA training.

My understanding is when it was, it was specifically part of a former corps curriculum for other training done by an agency and it was stamped and identified on its face at all times, that many of these things would be inappropriate for VISTA volunteers.

Senator SCHWEIKER. Was that grantee the Midwest Academy?

Mr. BROWN. I don't know what manual that is out of.

Senator SCHWEIKER. I believe it's the Midwest Academy.

Mr. BROWN. I think it's ACORN, a grant which has now since been terminated.

Whatever it is, it isn't being used any more—in any case, it is not being used for training of VISTA volunteers. It is not an Agency document. It is not being used for training of VISTA volunteers.

Senator SCHWEIKER. What was the original purpose for which money was given to the Midwest Academy, and why were they selected?

Mr. BROWN. Well, it was given for training and supervision of volunteers. It is important to understand and I am going to ask Miss Tabankin to deal with the detail of the Midwest Academy grant and the reasons for that grant. But let me simply say that when it is said a half million dollars went to someone, it sounds like a big sum of money.

That is principally for volunteer support dollars. There is no indirect overhead built into those grants. It could possibly cost a sponsor money to have a national grant because virtually all funding of it goes directly to VISTA volunteers in the form of stipends, subsistence allowance, and transportation, which is administered through that sort of middleman mechanism of the original grantee.

Now Miss Tabankin can talk about the nature of that particular grant.

Ms. TABANKIN. The grant is for 105 training entrants to serve in a period of a year, which would equal 88 work-years. It's in 25 different projects and 16 different States.

Volunteers are mainly used to establish self-help in community development organizations, such as New Jersey Federation of Senior Citizens, an organization there with a community campaign around the use of generic drugs by fixed-income senior citizens.

A lot of pharmacists were not willing to give senior citizens the information they were looking for. So that community awareness campaign was undertaken.

Another example of a project in the academy was a Carolina Brown Lung Association project which did health screenings for former pensioners who had suffered from cotton dust byssinosis

and was now performing health screenings for them so they could claim for compensation.

The academy, as an organization, had a network of affiliates such as this that were doing training work. It also trains for the Junior League at times, for the Coalition of Labor Union Women, and for the Campfire Girls. It trains in various different communities.

Senator SCHWEIKER. They don't use that literature for Campfire Girls.

Ms. TABANKIN. No, I hope not, but they do train for the Campfire Girls.

Senator SCHWEIKER. But they must have a different brochure. [Laughter.]

What safeguards can be taken to make sure things like this don't happen again?

Ms. TABANKIN. I think what we have done is to set up a far more rigorous monitoring system, and evaluation system at the State, regional, and national level. Mr. Lewis' office is in charge of the field system and I think he should probably answer the question.

Mr. LEWIS. Senator, I might just add that our field staff is highly professional, and well trained. In all future training programs, there will be a member of the field staff, someone from the State office, or the regional office present to monitor the training programs.

MONITORING NATIONAL GRANTS

Senator SCHWEIKER. How about monitoring the literature? I mean, if we are putting money in the budget to train people and the grantees are handing out literature of this sort, it seems to me that's as critical as the content of their training per se.

It seems to me there's a philosophical problem here. If this is really the core philosophy of people who do this kind of training, I would be disturbed if that wasn't explored before a decision is made to give that academy a grant in the first place.

It seems to me that you should take into account their past activities, and the kind of literature they hand out, in addition to their training proposal.

It's fine to monitor the training. But, obviously, if they have been handing out literature like this before, which is associated with their group, shouldn't you make an effort to find that out and assess that before you award a grant?

Ms. TABANKIN. Senator, on the renewals for all these grants, we are looking at the training curriculum design, the training methodology and, the training content very carefully. All the literature has been rewritten.

The program was started very quickly and a lot of the training materials were not done specifically for VISTA volunteers; now they are.

Senator SCHWEIKER. Is there approval or prescreening process for instructional literature for grantee uses like this?

Ms. TABANKIN. There now is, yes.

ROLE OF THE STATE OFFICES IN VISTA

Senator SCHWEIKER. You claim you are getting initial problems ironed out of the VISTA national grants program. But the congressional investigation found that State directors have reservations about the effectiveness of the program and think VISTA projects can be better supervised out of State offices rather than the national office.

National grants were reportedly low on their list of priorities.

It sounds as if the State directors do not concur with your assessment of the national grants idea.

What would be your response?

Ms. TABANKIN. I think originally the State directors were very anxious about the national grants program. They didn't know what was going on. It was a change in administrations at the ACTION Agency. They weren't sure of what we were talking about or why we were doing what we were doing.

So that when, for example, we started looking at projects such as the Federation of Southern Cooperatives, which is sharecroppers throughout the South, we had a lot of resistance from our Southern State directors to doing this project, even though we knew by having a national organization as an affiliate, the supervision, the training, the co-op delivery and development capability would be far better than if they dealt with 7 or 8 different ACTION State directors.

What we have done, however, is to take very seriously the comments of the ACTION State directors and this year are in much better administrative shape to both honor those comments, respond to those comments, and make sure that the projects live up to what we need for a successful project at the local level.

It's interesting to see in the renewal applications, that the State directors have either picked up the projects, or in an overwhelming number of times, have very favorably supported their renewal.

I think it was a first-year getting started, mistrust kind of situation.

MIDWEST TRAINING MATERIALS

Senator SCHWEIKER. There sure was mistrust. I just read the bottom line here: "Be ever on the lookout to play targets off against each other, Republicans versus Democrats, upstate versus downstate, in-group versus out-group. Your enemy's enemy may be your ally."

Mr. BROWN. Mr. Chairman, none of us need to agree with that at all since none of it was ever ACTION literature, or used or approved by the ACTION agency.

Senator SCHWEIKER. Are you saying this never was ACTION literature?

Mr. BROWN. No. I'm not sure where it was used. But if it was, it was used by one of the grantees of the ACTION Agency.

Senator SCHWEIKER. I think this is an important point. If you are right on this, I think that we ought to make the record clear.

Mr. BROWN. It was not ACTION literature; it was the grantee's literature which was used, which is no longer being used now at all.

Senator, if I might say, the investigation report has not been released officially but it has been released publicly.

Senator SCHWEIKER. Sam, the congressional investigator's report says:

> This document was made available to VISTA volunteers, presumably as recommended reading. Some examples of the questionable passages contained in the Midwest training document follow.
>
> The training materials used by CORAP and Midwest—have both been the subject of some controversy. On instruction from the ACTION Office of Compliance, CORAP has discontinued using its objectionable materials, and they were not in evidence in the sessions attended by the investigative staff. At the Midwest session, some of the handout material contained statements and language which could be construed as inflammatory.

As I read that, it implies this material was part of the program. And I guess my question would be: If you dispute that and have evidence to the contrary, we'd be glad to have it.

Mr. BROWN. Fine. We will be happy to supply that to the committee. That in no way represents the philosophy or the program which we have attempted to bring to VISTA.

Had we been in the business of the confrontation that is recommended there with 4,000 to 5,000 volunteers around the country, there certainly would have been a good deal of it.

There hasn't been because that's not our philosophy; that is not our idea; and that's not the direction we are headed.

Senator SCHWEIKER. OK. I think any additional light you could shed on that would be helpful.

Mr. BROWN. Sure.

[The information follows:]

PRACTICE FOR TRAINING VISTA NATIONAL GRANTS

Because of the short start-up time allowed to the grantees some of them such as the Midwest Academy used materials for training the VISTA's which they had previously developed for non-VISTA training. Headquarters ACTION staff reviewed and approved the overall design, objectives and agenda for the volunteer training. However specific materials were not subjected to systematic scrutiny. As a result the materials referred to were used by the Midwest Academy in its original training but have not been used again since its preservice training in the spring of 1978.

To guard against future use of inappropriate training materials we have now instituted review procedures for all materials used in the training of VISTA's. No materials can be used without VISTA's prior approval and we will insure that materials that are inappropriate are removed from the training curriculum.

VISTA RULE IN LOW-INCOME COMMUNITIES

Senator SCHWEIKER. VISTA has been criticized for being involved too much in the middle-income community to the exclusion of the low-income community intended by Congress to be the focus of the program.

Have you improved your standards for identifying low-income communities? Or maybe a fairer question is, what are your standards?

Mr. LEWIS. Senator, just let me say that I have traveled all across the country during the past few weeks and months. As a matter of fact, I was in Pennsylvania just last week, in the Philadelphia area. And I have seen VISTA volunteers, both national grant volunteers and regular volunteers working primarily with people at the very bottom, those that have been left out and left behind. They are giving of themselves.

Low-income people, poor people, elderly people—I believe about 14 or 15 percent of all VISTA volunteers are—are working in their own neighborhoods to help others help themselves.

Senator SCHWEIKER. So you would refute that assertion, I gather?

Mr. BROWN. It should be understood, Senator, that our legislation does not require us to work only with people who are designated by the Community Services Administration as low-income individuals.

Senator SCHWEIKER. That's true.

Mr. BROWN. The strategy we have discussed is trying to find ways to build organizations, and institutions in a community for people to deal with their own problems. To do that, when somebody wants to join a co-op, we don't do a means test.

What we do try to do is to focus our projects on the places where the preponderance of people involved will be low-income people. And our evaluation section, which is separate from VISTA, has determined that the volunteers are, in fact, working principally with low-income people, working not only on poverty, but as the legislation requires, on poverty-related problems. It's very clear that that's where our volunteers are.

VISTA INCREASE

Senator SCHWEIKER. In light of this criticism of VISTA, why have you chosen to expand it rather than increasing the number of volunteers in the popular Older American programs, like RSVP and Foster Grandparents, which have not received this degree of scrutiny or criticism?

Mr. BROWN. Well, the request which you have before you is a request now 18 months old, from the administration, which we now believe we are in even a stronger position to advocate at this point. We have large numbers of people who want to volunteer for VISTA. We think it is a highly cost-effective program. And the fact that there are some people who don't like what we are doing, for whatever philosophical reason, doesn't mean that we shouldn't go ahead and do it.

The position of the administration is that the direction in which that program is going—that is, toward building for self-sufficiency, trying not simply to build a greater dependency network, but to help people pull out of that dependency network—is a critical element of any kind of change in the society, and any kind of improvement for the people on the bottom of the society.

That in not way is to derogate our Older American programs, for which we have a requested increase of $10 million this year. We think those are good, solid programs. And, if you look at our ranking that was sent to OMB, you will find that they were ranked very, very high. Had the agency only run one thing, it would have been Older American programs.

We looked very aggressively at VISTA, a program that had been diminished over a period of years. The last recommendation made for the budget was in fact zero funding, before I became Director of the Agency. And so it really was an attempt to rebuild a program that had gone through some hard times.

URBAN VOLUNTEER PROGRAMS

Senator SCHWEIKER. ACTION has been criticized for putting money into projects with little hope of community support if and when Federal money runs out. And now you are proposing to start up a new urban volunteers program to support more community projects.

I guess my question here is: Isn't this building a shaky foundation? Because at some point, obviously, the Federal dollars will be cut off or reduced.

Mr. BROWN. Our experience on the three urban programs which we've proposed, is that they will be composed principally of professional volunteers working with low-income people, working on a part-time, nonstipended basis. It will include the lawyer, architect, city planner, the sort of good-hearted person who wants to know how to work with and really genuinely cares about their community, but frequently can't figure out how to get linked up with the low-income communities that have the greatest needs. That volunteer never really has a chance now.

This program is in fact very much like RSVP in the way that is administered, in that it builds a linkage mechanism between professional people and the low-income community. We have examples of that at work. I think Mr. Rodgers can outline the examples in each of those.

TECHNICAL AND MANAGEMENT ASSISTANCE

Mr. RODGERS. We've had demonstration programs, both for the technical management assistance and fixed-income counseling programs.

In Cincinnati we are working with the United Way, which is the grantee to develop a technical management assistance demonstration effort. Among the things they have done is to work with a coalition of neighborhoods on developing a handbook for all neighborhoods to use on how to prepare a simple budget, which is one of the big problems we found for grassroots neighborhood organizations.

Senator SCHWEIKER. It's a problem for all of us. [Laughter.]

It's good to start there. I won't disagree with that.

Mr. RODGERS. I would not be the one to pull out my bank book.

But at any rate, these are people who are more competent than I, at any rate, in keeping their own finances straight, and consequently these people with experience in budgeting and accounting, have been able to develop a simple sort of a handbook that is available to all neighborhood organizations. And consequently, they have left a continuing legacy that can be used in coming years.

Senator SCHWEIKER. I think that's a good project.

Mr. RODGERS. And that's the kind of example of what we would intend, not just in Cincinnati, but in other places. And we would also intend that when the folks in Cincinnati come up with good ideas, as that seems to be, they would be made available to each of the other technical and management assistance projects around the country. We would have an information-sharing network that would be used to do that, if the Congress appropriates funds for the program.

FIXED-INCOME CONSUMER COUNSELING

In fixed-income counseling, where the goal is to work with people who are living on fixed incomes—retired people, single heads of households, widowed, divorced people, for example—we have four demonstrations going on, in southern California, and in the cities of Denver, Atlanta, and Massachusetts.

The project in Atlanta—actually, it's in Atlanta and two other communities—Savannah and Athens—in Georgia is sponsored by a senior citizens organization, and what they are doing is working with the retired senior volunteer program. RSVP has locally sponsored projects in each of those three participating cities in the State of Georgia. This project has been going for 9 months. They have worked with 3,000 low-income, fixed-income people.

One of the things that is done in Denver and has also been tried in Atlanta and Savannah is use of bilingual materials, training and counseling. In Georgia they have been working with Spanish-speaking people and also with Vietnamese people who have recently come to this country, to provide them with an understanding of how to make the dollar stretch longer and better.

These are examples of projects we would hope to expand to other parts of the country.

REORGANIZATION

Senator SCHWEIKER. The congressional investigation concluded that your reorganization effort has yet to achieve its goal, and I quote from their report:

> ACTION undertook the reorganization without much idea about just where it wanted to go or how to get there. As a result, the reorganization began with much flurry and fanfare, but progressed by fits and starts, and ultimately evolved into a plan seemingly based on the premise that the best change is no change at all.

And obviously you should have an opportunity to respond to that. And maybe tell us something about your reorganization.

Mr. BROWN. I can't respond to the attribution of motive, that is, of not knowing where we were going, except by saying I had a very clear idea and I think the agency did. And John Lewis can talk about what in fact got accomplished during that period of time, which I think tends to dispute some of that.

Mr. LEWIS. At the beginning of this administration, Senator, the ACTION domestic operations side was analyzed by several different segments of the American community. You may recall that we had a citizen's review, a national panel of distinguished citizens from all across the country, look at the ACTION domestic structure. The interim staff, the field staff, and the headquarters staff—when I say "field staff" I mean the region and State staff—participated in that review of the ACTION domestic side.

They all recommended that we should reorganize the domestic structure in such a way that whatever reorganization we set out to do, would prevent any employee from being harmed or hurt in any sense of that word. This we felt was in keeping with the commitment of this administration.

We made a decision. It was a conscious decision on the part of this administration to move the decisionmaking process out of Washington. To move the programmatic thrust to the local level,

that is out of the Washington national office, and out of the regional office, to the State office. Likewise we shifted program emphasis based on basic human needs.

We delegated program decisionmaking——

Senator SCHWEIKER. In other words, decentralized. Is that what you're saying?

Mr. LEWIS. That's right. We gave greater program authority and budget authority to the State level. The employees were involved in the decisionmaking process from the very beginning.

And I think if a survey was conducted today it would show that not a single domestic employee has been hurt in this process.

We targeted 40 positions to be moved from the regional office to the State office, of which 38 have been moved. Eighteen of those are presently encumbered, and others would be if we had the money.

So the only reason the reorganization is not as complete as it should be is because of the shortage of financial support.

SUPPORT INCREASE

Senator SCHWEIKER. As I understand your budget, you are asking for a 45-percent increase in headquarters staff, and in light of the congressional investigative report and also in light of the testimony about decentralizing your ACTION operations, why would you need a 45-percent increase in headquarters staff?

Mr. BROWN. I think you have been misinformed on that one. We are not asking for a 45-percent increase in anything. We are asking for a number of positions, approximately 89 positions. Those positions would be located principally in the States and regional offices. Approximately 89 of those positions would represent an increase of about 20 percent in the total number of agency positions in domestic operations, virtually all of which would be in the field, not in Washington.

Senator SCHWEIKER. Well, the figures we have, in terms of breaking it down by headquarters and regions, is that you presently have 75 at headquarters staff in this fiscal year, and you are asking or estimating 109 for next fiscal year, which would be an increase of 34 over the 1975 base, which would seem like 45 percent.

Mr. BROWN. Yes; that is in fact absolutely correct, and of those 34 positions, 27 are for new urban programs which we have requested, are required principally for administration at the headquarters level. That establishes an entirely new $25 million program, and that's the headquarters staffing component for that program.

Senator SCHWEIKER. So 27 of the 34 are for your new urban program?

Mr. BROWN. That's right. The other 7 are for VISTA, which also, as you can see, has a substantial increase in it in terms of dollars, and that would go from 35 headquarters staff to 42.

ALLEGED FAVORITISM IN PROCUREMENT

Senator SCHWEIKER. Your procurement staff admitted to congressional investigators that there is a great potential for favoritism in

the selection of projects for funding. The investigators found that preferred sources can be selected easily because ACTION evaluations are subjective to an unusually high degree. You might want to respond to that part of the study.

Mr. BROWN. I would like to respond to it in general; then Ms. Leyland can respond to it a little bit further.

We are in a unique situation as an agency with regard to evaluation of the products which we receive. And investigators are absolutely correct—and, of necessity—as a result of the kind of programs we conduct. There is an element of personal evaluation in that. It is very hard to imagine how it is conceivable to draw specifics and details of procurement for a training program in Ghana with the same precision as you can draw details for the purchase of a gun or a house or anything else.

We are talking, in substantial part, about procurement of training programs for volunteers, frequently 5,000 miles from here. Certainly, some standards need to be established.

Ms. LEYLAND. He has explained it correctly.

To expand on that, I might add further that many of our training contracts go to educational institutions, just as a parenthetical to his remarks.

Additionally, there is the joint role, the procurement branch is responsible for the fiscal side and the technical people are responsible for the programmatic side.

As Mr. Brown pointed out, there aren't a great many firms in this country who can provide training for us for Ghana or Micronesia or Chad or Guatemala.

UNRESOLVED AUDITS

Senator SCHWEIKER. Last October the General Accounting Office issued a report about unresolved audits in Federal agencies, including ACTION. Your Agency was found to have unresolved audits totaling some $1.1 million at the time of the GAO's investigation.

What steps have you taken to clear up this backlog, and what is the current status of unresolved audits in ACTION?

Ms. LEYLAND. I would have to provide for the record the detail on unresolved audits. I used to work at the Environmental Protection Agency where we had a $6 billion appropriation. Looking at $1 million as far as unresolved audits at ACTION is concerned is a tiny number. I can provide for the record a backup on unresolved audits.

We, like all Federal agencies, received a memo from OMB about unresolved audits and cash management, an emphasis Mr. McIntyre put on all Federal agencies.

Senator SCHWEIKER. All right, you will supply that for the record?

Ms. LEYLAND. Certainly. I can give you the detail about our unresolved audits.

[The information follows:]

EXPLANATION OF UNRESOLVED AUDITS

The information that ACTION had unresolved audits totaling some $1.1 million is derived from a GAO report issued on October 25, 1978. The figure is in appendix 3, page 33 of that report. This figure was derived by adding up all questioned costs in

outstanding grant audits as of that time. Inasmuch as the agency has an average total grant budget per year in excess of $60 million, this may be considered a very small amount to have outstanding——less than 2 percent of the annual grant awards.

ACTION, on a continuing basis as part of our grant audit coverage, closes a number of audit reports every month. In the normal course of events, grants officers in the regions will close these in a timely fashion. It is also important to note that, although at the time there was $1.1 million of questioned costs, experience shows that approximately only 5 percent of these costs will actually be disallowed. The rest will be subsequently allowed through improved documentation, et cetera.

Subsequent to the development of the data in the October 25, 1978, report, ACTION has continued to perform grant audits and close outstanding grants. New audits are constantly being generated at the same time previous audits are being closed, and we continue to have an average backlog of approximately $1 million in questioned costs.

NATIONAL YOUTH SERVICE

Senator SCHWEIKER. What exactly is the new National Youth Service on which you are proposing to spend $2.5 million in fiscal 1979? And who is it intended to serve?

Mr. BROWN. If I can comment, generally; and then Mr. Derryck, who is the Deputy Director of the Office of Policy and Planning and has been directly responsible for that project, can speak to it.

But the general comment is that in the last weeks and months, as you may have noticed in the newspapers, there has been a good deal of discussion about a variety of measures for dealing with everything from military manpower to, the discussion that grew from a report by the Potomac Institute that Harris Wofford and Jacqueline Grenner Wexler did on national service 2 days ago.

This is the second year that this has come up. It is another one of those programs that was not acted on last year as we are still on a continuing resolution. The intent is to provide an opportunity for the administration to take a look at the wide range of proposals that would make it possible for young people to provide a year's service to this society. And there are a number of technical questions involved which require very explicit study and at some length before undertaking something of that magnitude in our society.

Mr. DERRYCK. A major portion of that research and development has to do with looking at a number of issues. We have identified approximately 15 different issues involved in exploring the possibility of a national youth service. These issues run the range of looking at the impact that such a national youth service would have on public employment programs that currently exist; what kind of impact it would have on, say, the military manpower needs in the country; likewise, the impact on schools, universities, and other educational institutions.

One of the other issues involved: would be to look at what the level of demand for such a service would be. This is something that we are now beginning to get a better understanding of in terms of the demonstration we are now operating in Syracuse. That demonstration will be a year old at the end of next month. And based upon much of the experience of Syracuse, we will be able to build what we think would be a fairly comprehensive list of issues that need to be explored before one can really answer the questions about a national youth service.

Senator SCHWEIKER. Now, according to last year's testimony, you were talking about $500 million, plus or minus for this program. Are you still talking in those terms?

Mr. BROWN. Well, it's a great plus or minus. [Laughter.]

The $500 million figure came in last year's OMB submission where I figured it would get their attention.

Senator SCHWEIKER. It did. I can still read Senator Brooke's remarks, with exclamation points, in the record. [Laughter.]

Mr. BROWN. There was no recommendation from the administration. But one of the questions is: What does it cost to do a national youth service? And as a relatively small agency, with a budget approximately half the amount of that request, we sent it over to OMB to draw their attention to our concern. And it did. And we then discussed what kind of research would be necessary before we could make firm proposals.

Senator SCHWEIKER. Has your concept been changed in any way in terms of the overall picture? What kind of a visual concept do you have of this program, or is it still too early to tell?

Mr. BROWN. Up to this point we still don't have an appropriation to do the work, so we are where we were except that there are several things that have occurred since then. This major study on national service that was released several days ago from the Potomac Institute, the continuing and ongoing discussion about military manpower, the question about if there was a draft who would get drafted, all of those questions relate to the service.

Senator SCHWEIKER. This doesn't include the draft, does it? It's peacetime volunteer work.

Mr. BROWN. The question of military manpower needs is clearly related. If everybody is off doing national service, people fulfill their social obligation there, and you have cut into the potential pool on the other side.

TRAVEL REQUESTS

Senator SCHWEIKER. What is VISTA's 1980 travel budget, and how does it compare to 1979?

Mr. BROWN. There is a domestic operations travel budget, and it may be broken out for VISTA purposes.

Senator SCHWEIKER. Let me amend the question to say "domestic operations travel." I think that's a better question.

Mr. MARKHAM. Senator, for fiscal year 1980 we plan about $4½ million in domestic travel. Most of that is travel for volunteers. We can supply for the record a specific breakout for the VISTA portion of that.

Senator SCHWEIKER. No. I guess my next question would be: That does represent almost a 90-percent increase. Why?

Mr. BROWN. It appears that at least $1.5 million is directly attributable to the increase in the number of VISTA volunteers and the transportation related to that. This is an integral part of the request for VISTA, and we just extrapolate transportation costs for the volunteers from the number of volunteers that are recommended.

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So, it is a derivative figure, and we will be happy to add a supplement to that. That is approximately 70 percent of the total amount for that.

Mr. MARKHAM. I think we should say one of the reasons, though, for the large increase, Senator, goes back to the deficiency that we have in program support funding that goes really way back to 1978. Because we have been under a continuing resolution, we haven't been able to get the additional money requested for support, and we are short.

Senator SCHWEIKER. You've been under a continuing resolution for how long?

Mr. MARKHAM. Technically, we were under it last year for the whole year. We are under a continuing resolution again this year. We have never been able to get Congress to act on our increased request for support.

Mr. BROWN. In the previous year, as I understand it, we were only under it simply because we hadn't gotten action on the increased funding. Now we are technically, in fact, under continuing resolution. We were at a continuing level last year and this year.

Is that a correct way of saying it?

Mr. MARKHAM. Yes.

The final thing I wanted to say, Senator, was that right now we have reduced the travel budgets throughout domestic regions for staff in order to continue to pay the salaries to people that are now on board. So travel has been seriously curtailed so that the 1979 figure you are looking at is a deficient figure, and this increase would not be so large if we in fact had a travel budget in 1979. We were supposed to have it after the supplemental was added.

PROCUREMENT PRACTICES

Senator SCHWEIKER. What steps have you taken to clear up the numerous deficiencies cited by the House investigators in your procurement practices, like inadequate information on contract requirements, insufficient notice to bidders, subjective selection criteria, authorizing work without approved contracts, and preselection of contracts?

Ms. LEYLAND. About the last two that you speak of, I answered earlier that increasing the selection——

Senator SCHWEIKER. You get all the tough questions. You just came from EPA. [Laughter.]

Ms. LEYLAND. I can provide for the record the detailed backup for those questions.

However, specifically, the allegations go to a single instance where there may have been some difficulty about increasing the number of vendors to bid on our contracts. I will go back to my earlier statement, that is in relation to our Peace Corps training programs, there are not a great number of people who respond.

INADEQUATE INFORMATION ON CONTRACT REQUIREMENTS

The investigation report noted that "requirements are not adequately described and requests for proposals (RFP's) consistently provide inadequate information to insure that contractors and evaluators have a common basis for determining that proposals meet the Government's requirements."

This accusation is not backed up by any specific information except the general charge that evaluation and scoring must be subjective. The agency in fact does provide very adequate RFP's. The Comptroller General requires that RFP's apprise potential offerors of the evaluation criteria of general categories without breaking down every evaluation factor. For each ACTION contract, the requiring offices, which have the necessary technical knowledge, prepare the criteria and the contracts office reviews the criteria for sufficiency in accordance with procurement practices and assigns points for each evaluation category. After receipt of proposals, the contracts office briefs the technical evaluation panel which reviews the proposals and advises the members that the proposals must be rated against the Government criteria and in accordance with the proposals.

Insufficient Notice to Bidders

The investigation report notes that 90 to 120 days are necessary to effect contract placement. "Such schedule provides opportunity to recognize the administrative leadtime necessary to make the purchase and contract award in compliance with pertinent laws and regulations." The report goes on to tell of an ACTION official who told the investigators that "the agency has never had substantive planning."

No substantiation is given for this charge. It is true that the 90 to 120 days is sometimes compressed into shorter periods due to the exigencies of the case. Normally in such instances the time allowed for bidders to prepare their proposals is not shortened. Nevertheless, the agency has instituted advance procurement planning and currently has a plan in operation and a final cutoff date which provide for 120 days to let the contract.

Subjective Selection Criteria

The report notes that "The deficiencies of the ACTION method of proposal solicitation, evaluation, and scoring and the gross subjectivity they foster are demonstrable." The report then goes on to discuss one contract as an example of this subjectivity. The report contains no indication of how normal agency procurement functions are handled.

In the single example, there was a violation of ACTION's order requiring confidentiality, there was an attempt to pressure the contracting officer, and there was improper interjection of a program official into the procurement process. All three actions involved a single individual. The report does not indicate that the contract was for the stateside training of Peace Corps volunteers bound for French-speaking Africa. The contract was awarded to a well respected nonprofit organization which has expertise in teaching French and had done substantial training in Africa.

Authorizing Work Without Approved Contracts

The report cites as a questionable activity, "Encouraging contractors to commence work without a contract." As an illustration of this, a particular contract is cited which "contained no mention of costs incurred prior to the date of the contract; however, about a month after receipt of the contract, the contractor requested the agreement to be modified in order to allow payment of precontract costs of $4,000 * * *"

A review of all negotiated contracts awarded in fiscal year 1978 has revealed that this was an isolated occurrence and is not, therefore, agency policy. The advertising contract discussed in the report was awarded to the Advertising Council, a nonprofit public service organization. Under this contract, ACTION paid the actual production costs for advertising services, but paid nothing for the creative effort that went into those services. If the agency had not used the Advertising Council to procure these services, it would have cost the Government far more than $4,000 to secure comparable advertising services directly from an advertising agency.

The contracting officer determined that the preaward expenditures resulted in benefits to the agency, and issued an amendment to the contract allowing the costs as is authorized by law.

In approving those costs, the contracting officer used the well-established ratification procedure set forth in the Federal Procurement Regulations (41 CFR 1-1.405). In accordance with that procedure, the contracting officer found (1) that the services were necessary and the costs justified; (2) that he could have given authority to perform the services before they were completed; and (3) that he still had the power to do so at the time he issued the amendment.

PRESELECTION OF CONTRACTS

The report notes that program officials frequently work with contractors prior to contract selection in developing statements of work and estimated costs.

The investigators findings in the examples cited are true and such abuses should not have occurred. Program officials who were involved in such practices have been instructed in this regard. Moreover, the agency is developing a training course for program officials to instruct them in the parameters of their authority, the limitations of their job and the things which they may properly do.

Senator SCHWEIKER. I am informed the criticism applies across the board. And I guess my question would be: What kind of a centralized system do you have?

Ms. LEYLAND. We have a central procurement function in the agency which reports to me. I am the Assistant Director for Administration and Finance. We have delegation of authority from Mr. Brown to me.

STAFF TRAINING IN PROCUREMENT

Senator SCHWEIKER. Is there any present staff training program regarding procurement, the procurement process?

Ms. LEYLAND. That's a recommendation Mr. Brown made to me, that we indeed give the nuts and bolts, how to do—how to behave to the program side of the house on all the procurement ins and outs. I did that with personnel when I came to the agency. I ran a training course for all the newer staff about all the personnel ins and outs. And I think this is a good suggestion on Mr. Brown's part that we do the same thing for procurement.

Federal procurement regulations make up a book about so big. It takes a Philadelphia lawyer to figure it out.

Senator SCHWEIKER. I would accept that criticism.

Mr. BROWN. The important thing, from our standpoint, is that there is no question anyplace in the report, although that language sounds sort of inflammatory, there is no question of fraud or misuse of funds or giving contracts to friends, which were the original allegations on which the investigation was initiated.

I have to say to some extent we are in a difficult position responding to a great many of these questions, since that report to which we are responding is not a public document.

Senator SCHWEIKER. I can understand that, Sam. I think that's a valid point. I am in the same position.

I have some additional questions which I will submit to you on behalf of the committee for the record, and would appreciate a prompt response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

VISTA NATIONAL GRANTS TRAINING

Question: Were you aware that this material was being used?

Answer: Some of the training materials used by certain grantees was not designed specifically for VISTA Volunteers and was not reviewed by VISTA prior to its usage. The training materials have not been used for VISTAs since the end of Midwest's pre-service training which occurred in the Spring 1978. We have now instituted review procedures for all materials used in national grant VISTA training. No materials can be used without VISTA's prior approval and we will ensure that any inappropriate materials are removed from the training curriculum.

Question: Since this project was supposedly being supervised by your Washington Staff, how does it happen that such material was used in the first place?

Answer: The Washington Staff reviewed and approved the overall design, objectives and agenda of pre-service and in-service training events conducted by national VISTA grantees, but did not review specific reading materials. We have now instituted review procedures of all materials used in such training.

Question: Is this Grantee -- The Midwest Academy -- still receiving ACTION funds?

Answer: Midwest Academy was awarded a national VISTA grant in the amount of $432,235 on September 30, 1977. This covered the support of 105 VISTA training entries and 65 volunteer service years. The grant was supplemented by $96,518 in Fiscal Year 1978 to cover 23 additional workyears (total 88) since volunteer attrition under the grant was low. The grant was supplemented by $38,506 in FY 79 to extend the grant from 12/1/78 through 2/28/79. The Agency is currently reviewing the grantee's application for a continuation of the grant for a second year.

Question: Have you taken any steps to recover any of the funds which went to this Grantee:

Answer: The Agency is currently reviewing the grantee's application for a continuation of the grant for a second year.

The Agency's Grants and Contracts Office is currently reviewing the issue of a possible overpayment of volunteer allowances during the training period. To date no funds have been recovered from the Grantee.

STATE DIRECTORS' VIEWS

Question: How do you plan to get them more interested in the National Grants?

Answer: During the twelve months in which the first national grants have been operational, ACTION State Directors have become increasingly involved with them. State Directors participate in

national grant pre- and in-service training, and have also used some grantees to conduct portions of standard VISTA volunteer training. Within limited travel budgets, State Directors make monitoring trips to local project components under the national grant, reporting their findings to the VISTA Headquarters Grant Project Manager. State Directors have been requested to submit recommendations on local project components as part of the national grants' renewal process. Many are now recommending approval of projects which they had previously recommended for disapproval. In several instances, State Directors have converted national grant project components into standard ViSTA projects supported by ACTION State resources.

State Directors or Program Officers will be a part of Headquarters Project Review Boards which consider national grant renewal applications as well as new applications which will be reviewed on a competitive basis.

We intend to use this second year of national grants' operations to strengthen the administration and monitoring of national grants, and to more actively involve ACTION State and Regional Offices in the process.

VISTA FOCUS

Question: What are your current standards, and are they consistent with Federal poverty program guidelines?

Answer: VISTA's mandate, as stated in Section 101, Domestic Volunteer Service Act, is:

> "to strengthen and supplement efforts to eliminate poverty and poverty-related human, social and environmental problems in the United States by encouraging and enabling persons . . . to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems."

The Economic Opportunity Act of 1964, from which VISTA stems, recognized that the problems which perpetuate poverty are varied and complex. It authorized a multi-pronged approach to these problems which has been carried forward into the VISTA mandate. The cardinal lesson learned in the last 15 years is that the poor can best ameliorate their condition through social and economic cooperation with other segments of society which are also affected by the problems which cause and perpetuate poverty. All VISTA projects focus on poverty problems. To the extent the efforts of VISTA volunteers help non-poor Americans, the benefit is incidental to this central purpose.

VISTA guidelines require that all projects involve and directly serve poor people. All VISTA projects are designed to have a major effect on the conditions which cause and perpetuate poverty. In focusing on the root causes of poverty, VISTA projects employ a wide-range of techniques. Special attention is paid to helping the poor develop leadership skills and organizational capacity. This can be

used on a continuing basis to solve the multitude of problems that confront poor people. This provides the basis so improvements in conditions will continue when the Volunteers have departed. (A copy of the the VISTA program criteria follows on the next page.)

Question: Do all VISTA Projects now conform to these standards?

Answer: VISTA's program standards are used to inform potential sponsors of the kinds of problems VISTA projects are expected to address and are intended to act as a guide to ACTION program staff in project selection and monitoring. It would be unrealistic to expect that all VISTA projects from their inception would fully conform to VISTA's program standards. Achieving the goals of the project is the process in which VISTA Volunteers participate. Goals that have as their focus the elimination of poverty are not easily achievable; they must be strived for constantly. The guidelines give all VISTA projects until July, 1979 to conform to the new program criteria. While some of these may be waived on an individual basis all VISTA projects should conform to substantially all the criteria by that time.

URBAN VOLUNTEERS

Question: Why should this be considered a Federal responsibility?

Answer: These Urban Volunteer Programs fit within a long tradition of federal social program assistance to local communities. The tradition of, Public Housing, Model Cities, Community Action Agencies, Community Development Corporations, VISTA, etc. is rooted in the belief that the federal government can help local entities address urban programs until those problems are eliminated; local government can pick up the tab; or until private sources can be marshalled. Periodically, problems arise which are of such a scope that the national interest is most readily served by federal programming. President Carter feels the urgent needs of distressed urban neighborhoods merit such a response. He has proposed a program which capitalizes on the extant energy of neighborhood residents but which provides the support to make their efforts more effective. His program summons private industry, local government and non-profit organizations into a new partnership.

Federal support is needed because two key factors which repeatedly hamper or destroy neighborhood self-help efforts are lack of seed money for equipment and materials and lack of management, organizational and technical assistance. A $5,000 grant to a bloc club to purchase tools for housing rehabilitation or a volunteer accountant to help an industrious neighborhood food co-op organize its books can be the difference between success and failure.

The long-range implication of this Urban Volunteer Program is that neighborhood organizations cement a "new partnership" which reduces, even eliminates, the need for federal assistance.

TO : VISTA Sponsors DATE: March 11, 1978

FROM : Margery Tabankin
Director of VISTA

SUBJECT: VISTA Program Criteria and Implementation Guidelines

On March 10, 1978, VISTA published in the Federal Register its Program Criteria and Implementation Guidelines. Enclosed is a copy of these Criteria and Guidelines as published in the Federal Register.

Please note carefully the sections entitled "Implementation of New Criteria for Existing Sponsors" and "Review of Continuation Applications". These sections are specially important for present VISTA sponsors. ACTION field staff will make every effort to assist you in the implementation of the provisions of these sections where they specifically affect you. If you have any questions on the materials contained in this Federal Register publication, please contact your local ACTION State Office. A more detailed explanation may be found in our VISTA Guidance Papers. Copies of this publication are available upon request from your ACTION State Offices.

In the narrative portion of the Implementation Procedures reference is made to "40 Fed. Reg. 23311, May 29, 1975." For your convenience, a copy of these regulations is attached to the Federal Register publication.

ACTION

DOMESTIC & ANTI-POVERTY OPERATIONS, VISTA PROGRAM

VISTA Program Criteria and Implementation Guidelines

This notice explains the program criteria and implementation guidelines for the VISTA Volunteer program. The VISTA program is authorized pursuant to Title I, Part A of the Domestic Volunteer Service Act, P. L. 93-113, 87 Stat. 396.

By reason of the fact that the material contained herein is a general statement of agency policy and procedure, relevant provisions of the Administrative Procedures Act (5 USC 553) requiring notice of proposed rule making, opportunity for public participation and delay of effective date are inapplicable.

Pursuant to section 420 of P. L. 93-113, 42 USC 5059, ACTION guidelines are effective 30 days after publication in the Federal Register.

1. Criteria for Selecting VISTA Sponsors

The criteria listed below are to be used by ACTION staff in the selection of VISTA sponsors. All of the elements stated must be found in the applicant sponsor's proposed project.

A VISTA sponsor will manage a project which is poverty-oriented in scope and mission. Such a project must:

(1) Have as a method of attacking poverty and poverty-related problems (a) the organization of low-income community residents to bring long term benefits to the community through their own collective efforts or the establishment of a grassroots advocacy system; or (b) supporting the efforts of a low-income citizen participation or grassroots advocacy organization(s).

(2) Have as a long term effect:

a. increasing access of low-income people to decision making through cooperative efforts with existing public or private institutions; or

b. the creation of mechanisms for participation of low-income people in the decision making processes which affect their lives.

(3) Show that the goals, objectives and volunteer tasks are attainable within the time-frame during which the volunteers will be working on the project and will produce a measurable result.

(4) Make reasonable efforts to recruit and involve low-income community residents in the sponsoring organization and develop their leadership skills.

(5) Provide frequent and effective supervision of the volunteers and have the management capability to carry out the project.

(6) Identify resources needed and make them available for volunteers to perform their tasks.

(7) Comply with ACTION legislation, policies and procedures established for the management of the VISTA Program.

2. Implementation of Criteria for New Applications

Organizations which are interested in applying for VISTA resources should contact the local ACTION State office for instructions and assistance in preparing an application. Applications submitted by potential sponsors will be reviewed in light of the above criteria. Those that comply with the criteria will be evaluated by the State and Regional ACTION office, compared to other applications received, and a decision made as to which applications will be accepted. Applications which do not comply with the criteria will be rejected. Applicants will be informed of the areas of non-compliance.

Regional or State Directors may request the Director of VISTA to waive specific VISTA criteria not mandated by law if the special needs of a particular community or group necessitate such a waiver.

3. Implementation of New Criteria for Existing Sponsors

(1) Notice

a. All existing sponsors will be notified of the new criteria as soon as they are published in the Federal Register. Sponsors will be told that their application for renewal will be reviewed in light of these new criteria, so that they may design their project accordingly.

b. By July 1, 1978, all State offices will review existing VISTA projects to determine whether they would be in compliance with new criteria if those criteria were applied to the project as currently constituted. Those that do not appear to comply will be notified of this fact with the reasons for non-compliance explained. Sponsors will be reminded that any application for renewal must comply with the new criteria.

(2) Review of Continuation Applications

a. Sponsoring organizations whose Memoranda of Agreement are renewable after June 30, 1978 will be reviewed in light of new program criteria. If the application does not comply with the new criteria, the sponsor will be notified that ACTION intends to deny the application for renewal, and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with ACTION procedures. See 40 Fed. Reg. 23311, May 29, 1975.

b. Sponsoring organizations whose Memoranda of Agreement are renewable between April 1, 1978 and June 30, 1978

1. may be extended by State Directors for a reasonable amount of time (e.g., 3 months) to allow revision of the renewal proposal to conform with the new criteria, or

2. may be renewed non-competitively if the State Program Director so desires, if the Regional Director concurs and if their proposal conforms to the new criteria, or

3. may be extended or renewed for one year under the old criteria to allow orderly transition if:

a. the State Program Director is satisfied with the program performance in the past year, and he/she believes the proposal conforms to the old criteria and the Regional Director concurs, and

b. the extension or renewal is necessary to insure that the organization has the opportunity for an orderly transition to continuance without VISTA Volunteers or to completion of the project, and

c. the sponsoring organization is clearly informed in writing at the time of extension or renewal that under no circumstances can the VISTA project continue after that period without submission of a new proposal conforming to the new criteria that is chosen under the competitive procedures that have been outlined.

c. Technical assistance will be given by National, Regional and ACTION State staffs to sponsors who are denied renewal but have been granted an extension to enable the sponsors to make an orderly transition to a system of providing services which is not dependent on the use of VISTA Volunteers.

d. By July 10, 1979, all VISTA projects will be in compliance with these criteria.

e. All sponsors submitting continuation proposals on the basis of the April 10, 1978 criteria will be reviewed on the basis of the individual project performance for up to three years. The fourth year continuation proposal will be compared against other new applications received.

This notice is issued in Washington, D. C. on March 8, 1978.

Subpart B—Refusal To Renew Agreement

§ 1212.2–1 Applicability of this subpart.

This subpart applies to full-time volunteer programs authorized under Parts A and C of Title I of the Act and operates pursuant to agreements between ACTION and sponsors. It does not apply to full-time volunteer programs operated pursuant to grants or contracts of assistance under Part C of Title I. Part 1206, Chapter XII, Title 45, Code of Federal Regulations applies to such grants and contracts.

§ 1212.2–2 Purpose.

This subpart establishes rules and review procedures for the denial of a request by a sponsor to renew an agreement for the assignment of full-time volunteers under Parts A and C of Title I of the Act. It also includes denial of a request to amend an existing agreement to add additional volunteers. Such denials are not grievances under Part 1211, Chapter XII, Title 45, "Volunteer Grievance Procedure."

§ 1212.2–3 Definitions.

As used in this subpart, the terms "ACTION," "responsible ACTION official," "agreement," and "sponsor" shall have the same meaning as specified in § 1212.1–3.

§ 1212.1–3 Definitions.

As used in this section—

(a) The terms "ACTION" or "ACTION Agency" include each regional office and state office.

(b) The term "Deputy Director" means the Deputy Director of the ACTION agency.

(c) The term "responsible ACTION official" refers to the appropriate ACTION Regional Director or his designee in the case of volunteer programs authorized under Parts A and C of Title I of the Act. However, in the case of programs under Part C of Title I, in which the sponsor agrees to reimburse ACTION for part or all of the costs of the program, the "responsible ACTION official" is the appropriate Regional Contracts Officer or his designee.

(d) The term "Hearing Examiner" means the individual conducting the termination hearing pursuant to § 1206.1–7.

(e) The term "agreement" means any written instrument, including a memorandum, arrangement, or contract between ACTION and a sponsor providing for the assignment or referral of full-time domestic volunteers under either Parts A or C of the Act, except grants or contracts of assistance.

(f) The term "sponsor" means a public or non-profit private agency, institution, or organization or a state or other political jurisdiction which has signed an agreement.

§ 1212.2–4 Procedures.

(a) Wherever possible, the responsible ACTION official shall make a tentative decision at the time of its field review as to the level of new volunteers which it intends to offer a sponsor for the sponsor's next program year. An ACTION official shall notify the sponsor of this tentative decision as soon as possible following the field review.

(b) The procedures set forth in paragraphs (c) through (g) of this section shall apply only where a new application for volunteers submitted by a current sponsor is rejected or is reduced to 80 percent or less of the sponsor's authorized volunteer level in the current agreement. These procedures do not apply to reductions based on legislative requirements, or on general policy, including limiting the number of years volunteers will be provided to a sponsor for a particular program or project, or in instances where regardless of a sponsor's current authorized volunteer level, its application for volunteers is not reduced by 20 percent or more.

(c) Before rejecting an application of a sponsor within the meaning of paragraph (b) of this section, the responsible ACTION official shall notify the sponsor of its intention and shall offer the sponsor an opportunity to submit written material and to meet informally with another ACTION official to show cause why its application should not be rejected or reduced. Written notification of ACTION's intention shall be sent to the sponsor as far in advance of the end of the sponsor's current program year as possible. The notice shall inform the sponsor that a tentative decision has been made to reject or reduce an application. The notice shall also state the reasons for the tentative decision to which the sponsor shall address himself if he wishes to make a presentation.

(d) If the sponsor requests an informal meeting with an ACTION official as discussed in paragraph (c) of this section, such a meeting shall be scheduled by ACTION as soon as possible after the notice is sent to the sponsor informing it of ACTION's tentative decision to reject or reduce its application. However, this meeting may not, without the consent of the sponsor, be scheduled sooner than 14 days after ACTION has mailed the notice to the sponsor.

(e) The ACTION official who shall conduct this meeting shall be an ACTION official who is not authorized to sign an agreement with the sponsor and did not participate in the tentative decision to reject or reduce the application

(f) An ACTION official who participated in the tentative decision to reject or reduce the application shall wherever possible attend the meeting. The meeting shall be held in Washington, D.C., in the appropriate Regional or state office, or in the city or county in which the sponsor is located.

(g) The recommendation of the official who conducts the meeting together with any written material submitted by the sponsor shall be forwarded for review to the responsible ACTION official. He shall inform thee sponsor of his decision and the basis for the decision in writing. If he rejects or reduces the application, no further appeal lies to any other ACTION official.

§ 1212.2–5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the sponsor and ACTION shall have the right to be represented by counsel or other authorized representatives.

OAVP INCREASE

Question: What are your plans for the $10 million increase in the Older Americans Volunteer Programs budget?

Answer: All $10 million will be allocated to existing projects. None of the money will be used to fund new grants. By category of activity the money will be distributed as follows:

Stipends (FGP/SCP)	$ 6,317,000
Insurance	145,000
Administration	899,000
Transportation	2,589,000
Training	50,000
	$10,000,000

According to program the money will be distributed as follows:

RSVP	$3,114,000
FGP	5,751,000
SCP	1,135,000

The stipend level for Foster Grandparent and Senior Companion Volunteers will increase from $32 to $36 per week.

OAVP TRANSFER

Question: There has been talk of transferring the Older Americans Volunteer Programs to the Administration on Aging. What do you think of transferring the programs?

Answer: I favor retention of all three Older Americans Volunteer Programs (OAVP) - RSVP, FGP, and SCP - under the administration of ACTION for a number of reasons. All these programs represent service by older persons rather than service for older persons as do the AoA programs. Most OAVP project directors strongly favor remaining under the ACTION umbrella, according to polls taken by RSVP and FGP project directors associations. We believe that the quality of all OAVP programs is raised by the cross-fertilization of ideas resulting from the joint training of ACTION's project directors. The transfer of these programs to another agency would only disrupt field operations and cause attention to shift from program substance to administrative issues for a long period of time. Such a transfer would not have the effect of combining a similarity of interests since RSVP/FGP/SCP are best characterized as "volunteer" rather than "aging" programs.

OAVP ACCOMPLISHMENTS

Question: What are the accomplishments of the Older Americans Volunteer Programs over the past year?

Answer: Through the 682 Retired Senior Volunteer projects, 199 Foster Grandparent projects, and 55 Senior Companion projects which created volunteer opportunities for 250,000 in RSVP, 16,630 in FGP, and 3,300 in SCP, the Older Americans Volunteer Programs has accomplished:

1. Development of 5 new Senior Companion Program projects which concentrate on the placement of volunteers with health care and social service agencies which will link the efforts of Senior Companion volunteers with the long-term health plans for persons served.

2. Selection of 113 RSVP projects to participate in demonstration efforts to encourage the assignment of volunteers in the areas of health (home care institutions, family violence, nursing homes) and community services (criminal justice, energy conservation, home-ownership for low-income persons). Conducted national training conference for participating project directors.

3. Development of model components for 14 Foster Grandparent projects in which volunteers will serve in one of three program areas: the abused child, child/youth offenders in the criminal justice system, the deinstitutionalization of children. Conducted national training conference for participating project directors.

4. Funding of 3 test projects to determine the effectiveness of utilizing the services of RSVP volunteers in three focal areas of deinstitutionalization: mental health, physical impairment, criminal justice in coordination with ACTION's Office of Policy and Planning.

5. Participation in a national training conference by all Senior Companion project directors.

6. Improvement of technical assistance to project staff and volunteers through publication of Prime Times and relevant program assistance papers.

7. Establishment of a national monitoring system to systematically review program progress in RSVP, FGP, and SCP.

8. Reorganization of the national office of OAVP along program lines rather than functional activities thereby creating separate offices for the Foster Grandparent, Senior Companion, and Retired Senior Volunteer Programs.

MINORITIES AND ELDERLY IN URBAN PROGRAMS

Question: How will the Urban Program involve the elderly?

Answer: Volunteers in the Retired Senior Volunteer, Foster Grandparent and Senior Companion Programs apply the skills and life experiences of retired people over 60 years of age to help solve problems in their communities. Our experience is that the Older Americans Volunteer Programs effectively coordinate with and extend the resources within their communities. Since the Urban Volunteer Programs propose to utilize the talents and skills of volunteers of all ages, in similar ways, it is our belief that older persons will be a major factor in the Urban Program's ability to spark the same kind of expansive use of resources involving a variety of community members and organizations. While the Good Neighbor Fund is not comparable to any Older Americans Volunteer Programs, it could in fact be utilized by an older Americans group to develop resources that would benefit themselves as well as others in the community.

Question: How will the Urban Program involve minorities?

Answer: Although the main criteria for neighborhood assistance will be that the urban community experience symptoms of distress (high unemployment, crime, incidence of poverty; serious out-migration; deteriorating housing; inadequate municipal services; etc.), most of these conditions cluster around neighborhoods housing the poor. The poor are in many cases the ethnic minority, the elderly and the handicapped. So, these are the groups for whom most of this self-help assistance is targeted.

Many grants will go directly to groups which are wholly or in part composed of target group participants. To ensure maximum assistance to those living in disadvantaged situations ACTION's programmatic guidelines will request sponsoring organizations to provide for the participation of clients (poor, elderly, minority groups, handicapped) in the organization's decision making as well as in project planning and implementation. Advisory committees, public meetings, board restructuring are among the ways organizations can meet this request.

ACTION will ensure that local organizations representing these groups are notified of guidelines published in the Federal Register and our program and compliance officers will monitor projects to insure these directives are being carried out.

REORGANIZATION

Question: How much did this reorganization cost?

Answer: Coordination of the reorganization in FY 1978 cost approximately $147 thousand. Most of this amount was expended for salaries of employees working on this effort. It should be noted, however, that the salaries of most employees, all permanents and one temporary, would have been paid anyway since these persons were already employed in other parts of the Agency.

Senator SCHWEIKER. Your complete statement will be included in the record.

[The statement follows:]

STATEMENT OF SAMUEL W. BROWN, JR.

Mr. Chairman, members of the committee, it is again my pleasure to appear before you as the representative of over 273,000 Americans who are volunteering to help the poor help themselves and serving their communities in every one of the fifty states.

Our budget request of $169,607,000 for ACTION's domestic volunteer programs reflects this administration's continued commitment to helping those who help themselves and their neighbors. The budget request is rooted in the most basic of American values -- equality, participation, self-reliance, -- and in the American tradition of helping one's neighbor.

This tradition is reflected in the already massive private sector volunteer activities which involve one out of every four Americans over the age of thirteen. According to the Census Bureau these Americans are contributing over $100 billion a year in unrecognized value to the gross national product. Much of that value is in the form of services which people in need would look to the government to provide if this network of private organizations didn't exist. Any stimulation of that spirit of caring has the ancillary benefit of contributing services to the economy which would otherwise cost money. This administration believes that if encouraged, and given the technical assistance they need, the American people can do much on their own to help themselves.

To meet our Congressional mandate of promoting voluntarism and particularly to help poor people, ACTION is requesting $169,607,000 in FY 80, an increase of $35,000,000 million or 26% over the last year.

This year's budget request has three major objectives: to sustain and strengthen our Older American programs, to increase the size of our VISTA program so that an average of 5,475 volunteers will be in the field in FY 1980; and to establish as fully operational ACTION's Urban Volunteer Programs.

In addition, we are requesting supplemental appropriations of $15.3 million for FY 1979. This supplemental appropriation will be used to recruit and field on the average 740 additional VISTA volunteers; to initiate the Urban Volunteer program; to develop a concept of national youth service; and to cover program support costs.

The first major objective of ACTION's FY 80 budget is to sustain and strengthen our Older American programs. The $72 million requested for all of our Older American programs represents an increase of $10 million. We are proposing that the majority of this increase, $6,317,000 be used to increase the stipend for our FGP and SCP volunteers by $.20, from $1.60 to $1.80 an hour. FGP and SCP volunteers have not received an increase in their stipend since 1968. It is a measure of the strength and commitment of these low income volunteers that they have continued to participate in these programs even though the value of the stipend has been seriously eroded since

these programs were started. They represent the best of the voluntary spirit in America.

We propose that $23,214,000 be earmarked for the Retired Senior Volunteer program. This is an increase of $3,114,000 over FY 1979. The additional funds will be used almost entirely to provide additional support for insurance, to cover transportation costs, for a 5% increase in administrative costs. It would be an understatement on my part to suggest the extent to which I have come to appreciate the talent and dedication of the RSVP volunteers.

It is our hope that we will be able to provide increased technical assistance to project directors by holding at least one additional regional training conference. We have found that one of the most important ways we have been able to help project directors is to provide them with intensive training. Last year, 113 RSVP project directors received advanced training in such areas as deinstitutionalization, crime prevention, energy conservation and advocacy. The continued publication of the newsletter Prime Times which is now reaching over 200,000 of our older volunteers, twelve times each year, will also facilitate our efforts to give project directors and volunteers the skills they need.

The $37,399,000 request for VISTA in FY 1980 represents an increase of 10% over the last fiscal year and represents the second phase of our planned restructuring and rebuilding of VISTA. As you know, in the last two years our efforts have been directed at articulating a clear programmatic direction and improving our management of the existing program. We are more than pleased with the recovery of this program. VISTA volunteers are now reaching one out of every twenty people who are improverished. This is a remarkable achievement for such a small program. Let me cite two examples.

In Minnesota, one of VISTA's elderly volunteers obtained more than $100,000 worth of funding for the Senior Federation Program, organized a ten country discount buying program which serves more than 3,000 elderly people, and helped Senior Citizens bring about a $31,000,000 cut in utility rates.

Five VISTA volunteers, three of whom are over fifty, are doing a different type of work in New York City. I believe staff members from this committee are familiar with "Adopt-a-Building", a neighborhood self-help housing group. Working with "Adopt a Building", these VISTA volunteers are training neighborhood residents to assume management of owner-abandoned buildings and to rehabilitate these building through their own efforts.

VISTA volunteers are on the average recruiting the equivalent of fifteen non-ACTION full-time volunteers and generating public and private resources for their projects equivalent to $24,000.

VISTA has accomplished significant program improvements in the last year without additional funding. The national standard for project selection has been delineated and a national grant mechanism has been established. Several improvements have been made in the National Grant mechanism including making all new grants competitive.

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In FY 1980, VISTA will concentrate its efforts on adding approximately 800 volunteers to its volunteer corps and consolidating improvements in its national grants program. Of our budget request $7,160,000 will be used for both regional and national grants.

VISTA will continue to focus its attention on improved training for its volunteers. In FY 1980, we will complete the development of our integrated training programs which will add an additional six days to the volunteer training schedule. Specially trained community development volunteers will receive 28 days of intensive training. These volunteers will ordinarily serve two years. The community development volunteer effort will be started with funds from the 1979 Supplemental request.

ACTION's third major goal in FY 1980 is to firmly establish the Urban Volunteer programs first announced in the President's urban policy. In FY 1980, ACTION is proposing that $25,457,000 be allocated to these programs. Start-up funds of $4,680,000 have been included in our supplemental request for FY 1979 for model projects for the Urban Volunteer Corps and the Good Neighbor Fund. The Urban Volunteer Corps and the Good Neighbor Fund will provide neighborhood groups and older Americans with the opportunity to demonstrate that the most successful programs are those which shift some of the emphasis from institutions to people - from large economic development programs to small neighborhood endeavors.

In FY 1980, ACTION is proposing that $16,750,000 be appropriated for the Urban Volunteer Corps. This program, which has two components, Technical & Management Assistance and Fixed Income Consumer Counseling, will help sponsoring agencies enlist part-time volunteers to provide neighborhood groups with specific managerial assistance and to provide sound financial, credit, and consumer advice to poor and elderly people living on fixed incomes. Neighborhood groups often fall because they lack specific technical expertise such as an understanding of sound accounting procedures, rather than the loss of community support for their work. The poor on fixed incomes are the most hard hit by inflation. Prudent financial and consumer counseling can help them conserve or increase their net income.

In FY 80 ACTION is requesting $8,457,000 for the second aspect of the urban program - the Good Neighbor Fund. A request for the $1,530,000 for this Fund has one goal - to provide neighborhood groups which want to help themselves with a one shot transfusion of financial assistance averaging $3,000 to $7,000 but not exceeding $15,000 to develop small community projects.

ACTION has thoroughly tested the concepts on which our urban programs are based.

For the past two years, ACTION has partially funded two technical and management assistance demonstration projects. In Cincinnati, 70 professional volunteers are helping approximately forty community groups. One volunteer, an accountant, spent six months designing a bookkeeping system for a non-profit, neighbor food and clothing distribution center for the poor.

Since 1975, ACTION has sponsored a fixed income consumer counseling demonstration project in Denver, Colorado. In the last three years, over 300 volunteers have provided 25,000 poor people direct and personal counseling in health, nutrition, pre-retirement planning, estate planning and the drawing up of wills.

A good example of a Good Neighbor type project is a $5,000 grant given by ACTION to help the citizens of Youngstown, Ohio create a local community development credit union after the Youngstown Steel Mill was forced to close because of flooding. Another example of a project which might be funded through the Good Neighbor Fund is The New Mexico Solar Energy Association which began its operations 2 years ago with a $5,000 grant. The group has recruited solar energy experts and published technical assistance brochures and pamphlets to help Association members to solar energize their homes. The Association, which now has 4,000 members, is one of the most influential solar energy advocates in the country.

A substantial reduction in programs will be noted by members of the committee in two areas. The funding request in FY 80 for ACTION's service learning program has been reduced from $1,724,000 to $873,000. These funds are being requested for our National Student Volunteer Program to continue to provide technical assistance in the promotion of a service-learning concept in high schools and colleges; and to offer demonstration grants which will test service learning as a way to help juvenile offenders, who in the past have not been included in these programs. Like ACTION's other proposed initiatives, this initiative is based on the success of previously funded demonstration grants. A second reduction will be noted by committee members for funding a study of the concept of a National Youth Service. For developing this concept $2,736,000 is requested in the supplemental funding for FY 79. No new funds are necessary in FY 80.

We are determined to manage all of ACTION's programs economically. We believe, as President Carter stated in his State of the Union message, that it is a myth "that we must choose between compassion and competence." We have improved our budget control system. We have revamped our recruitment reservation system through automation. Our efforts to improve our management capability will continue.

We are also determined not to lose sight of the larger issues which confront our society - poverty persists, justice remains in jeopardy, compassion is in need of friends.

Today, across America, the poor are pictured by some as the people whose very needs are the cause of inflation. It is not so. At the same time, the poor continue to be stereotyped as people who are unwilling to help themselves. It is not so.

The poor are the most self-reliant people in America. That they survive is a credit to their tenacity and their commitment to better themselves.

Like all Americans, the poor care about the well being of others. The love and caring given by the poor older Americans who work in our Senior Companion and Foster Grandparent programs is evidence of the tremendous willingness of those who have little to persist in helping those who have less.

Like all Americans, the poor seek dignity. VISTA will provide poor people with the opportunity to gain the measure of dignity they deserve.

Like all Americans, the poor want to make that effort which is a credit to them, their neighbors, and our society. ACTION's Urban Volunteer programs will help the poor and their neighbors help themselves.

We believe that our programs, fully funded and properly managed, can play a part in making poverty a distant memory rather than a daily trauma for the millions of Americans who are poor. We believe the budget presented to you today is a representation of this Administration's commitment to that end.

SUBCOMMITTEE RECESS

Senator SCHWEIKER. And the subcommittee will stand in recess until 10 a.m., tomorrow, when we will resume hearings on other related agencies.

[Whereupon, at 3:10 p.m., Thursday, February 8, the subcommittee was recessed, to be reconvened at 10 a.m., on Friday, February 9.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

FRIDAY, FEBRUARY 9, 1979

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

The subcommittee met at 10:10 a.m., in room S–128 of the Capitol, Senator Burdick presiding.

Present: Senator Burdick

NATIONAL LABOR RELATIONS BOARD

STATEMENT OF JOHN H. FANNING, CHAIRMAN

ACCOMPANIED BY:

JOHN E. HIGGINS, JR., DEPUTY GENERAL COUNSEL
JOSEPH E. DeSIO, ASSOCIATE GENERAL COUNSEL
WILLIAM A. LUBBERS, EXECUTIVE SECRETARY
THOMAS N. KESSEL, CHIEF ADMINISTRATIVE LAW JUDGE
ERNEST RUSSELL, DIRECTOR OF ADMINISTRATION
LEE D. VINCENT, COMPTROLLER
SAMUEL Z. MARKMAN, BUDGET OFFICER

1979 APPROPRIATION AND 1980 BUDGET REQUEST

Senator BURDICK. The subcommittee will come to order.

Today we will complete hearings on fiscal year 1980 budget requests for the so-called related agencies.

The first of four agencies to testify will be the National Labor Relations Board.

The Board's 1980 budget request is $108,050,000, an increase of $5,038,000 over 1979.

Board Chairman John Fanning is here. Please introduce your associates and proceed with your opening remarks

Mr. FANNING. Thank you, Senator.

Senator BURDICK. Welcome to the committee.

Mr. FANNING. I am accompanied this morning by John E. Higgins, Jr., our Deputy General Counsel. As you know, under the statute, the General Counsel is charged with the responsibility for supervising our field activities. I am also accompanied by Joseph E. DeSio, Associate General Counsel; William A. Lubbers, Executive Secretary; Thomas N. Kessel, Chief Administrative Law Judge;

Ernest Russell, Director of Administration; Lee D. Vincent, Comptroller, and Samuel Z. Markman, Budget Officer.

I am pleased to appear before you. We have provided you with an expanded statement as well as the justification, and what I would like to do at this time is just to present a few highlights and then try to answer any questions you might have.

[The statement follows:]

STATEMENT OF JOHN H. FANNING, CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD, BEFORE THE SUBCOMMITTEE ON LABOR, HEALTH, EDUCATION AND WELFARE AND RELATED AGENCIES OF THE SENATE COMMITTEE ON APPROPRIATIONS

February 9 , 1979

Mr. Chairman and distinguished members of the Subcommittee: I appreciate the opportunity to appear before you in support of the budget request for the National Labor Relations Board for Fiscal Year 1980.

As you know, we have already submitted to you a detailed written justification. But, with your permission, I would like to touch briefly on some of the significant highlights of that justification.

Our Fiscal Year 1980 request is for an appropriation of $108,050,000. This is an increase of $5,038,000 over the total appropriation plus pay act supplemental funds appropriated for Fiscal Year 1979 and represents an increase of about 104 staff-years of employment over what we plan to use in 1979.

I am here before you to make this request because, despite our Agency's historical record of increasingly productive performance, our case intake is increasing even faster and because inflation does not pass over the NLRB. I trust you will note, though, that we have been able to hold the 1980 budget request to within 4.9% of our 1979 costs plus pay act.

The funds requested are essential if the NLRB is to cope successfully with the anticipated record high workload we foresee in Fiscal Year 1980. Fiscal Year 1978 unfair labor practice case intake exceeded the intake for the same 12 months of the previous year by over 4.8%. We presently are receiving well over 1,000 new cases every week with our heaviest case intake normally later in the year. In 1979, we expect a total of 58,229 cases, a 9.3% increase. In 1980, total unfair labor practice and representation case intake is estimated to exceed 62,000, up another 6.5%.

This pattern of increasing case intake is, of course, nothing new. Long before now I concluded that a growth in the NLRB caseload joined death and taxes as life's only certainties. But in considering the growth in our caseload, which again necessitates a request for additional---but not more than fair---funding, I ask you to note three points. First, 90% of the caseload increase, in the period 1970-1980, has been from unfair labor practice charges. Unfair labor practice cases require far more Agency staff resources than representation cases do. Second, the 6.3% annual rate of increase in case filings over that period has been absorbed with only a 3.4% annual increase in Agency employment. Third, the NLRB did not, in that period or in the 35 years before, file one of those cases. Unlike the vast majority of Federal agencies, the NLRB itself initiates zero workload. All of the charges and petitions filed with us are filed voluntarily by outside parties. The NLRB's caseload, therefore, is totally outside our meaningful control.

What is not outside our control is a prudent use of, and respect for the nature of, the resources entrusted us. We have earned, over the years, a widespread reputation---a deserved reputation---for efficiency and economy, and I assure you that, with your continuing assistance, we will be able to continue on that path.

Before discussing some of the more important matters reflected in our request, I would like to review, briefly, the NLRB's budgeting methods---how we developed this request for 104 more staff-years of employment.

NLRB'S BUDGETING METHODS

I want to make it as clear as possible that our budget has a highly objective base and is held out by the Office of Management and Budget as a model of "how to do it." There are three major components to our budget. They are the estimated number of cases to be filed, by type; the estimated percentage of cases which will be withdrawn, dismissed, settled, and litigated, based on historical experience; and, the productivity rates of our professional employees.

Intake

First, as to intake, all of our Regional Directors go to a considerable effort to estimate future trends affecting case filings in their respective areas. For most recent years our best estimates have been conservative and actual filings have exceeded our estimates. 1973 is the only post-World War II year in which we had a decline in unfair labor practice cases filed.

Settlements and the Disposition Pattern

The General Counsel and I regularly stress the importance of settlements in unfair labor practice cases, not only because avoidance of litigation saves both the Government and the parties a lot of money, but because we believe settlements, especially those that occur early in the history of a dispute, can best effectuate the policies of the Act by bringing about greater harmony in day-to-day collective-bargaining relationships.

You are well-versed on the operations of the NLRB, but you may not know that if our settlement rate, as a percentage of meritorious unfair labor practice cases, drops just one percentage point, the cost of litigating those additional cases by 1980 will be well over $500,000. Our high rate of settlements does not come about as a result of good luck. It is the result of hard work, and for that we hire the best people and give them the training and time to invest in obtaining settlements. A good settlement rate, like good luck, favors the well-prepared. We constantly emphasize settlements and train our people to conduct a thorough investigation and to prepare professionally for each settlement negotiation. It is time well invested, and the quick resolution of these cases pays off in labor peace and in money saved by the NLRB. We remain ever vigilant to shifts in the settlement rate because this, as well as intake, can

change adversely for reasons beyond our control or our ability to forecast. The General Counsel's statement deals with this more fully.

Once the disposition and settlement pattern for our case-work is known, we move to the next component.

Productivity

Having estimated the amounts of case intake, we can then predict, according to the normal disposition pattern, the number of cases that will flow through to each stage of our case handling pipeline. We have a productivity rate for nearly every type of case work, which we then use to compute our staff-power needs. This then provides a solid foundation upon which to compute fund requirements for the Agency.

I would now like to move on to a brief discussion of some of the issues addressed in our budget request which fall under my responsibility.

ADMINISTRATIVE LAW JUDGES

Our Administrative Law Judges have maintained a high level of productivity in 1978 and I am proud of their accomplishments under the leadership of Chief Judge Tom Kessel, who is with me this morning. The Judges issued 1,197 decisions and closed 1,258 hearings in 1978. These achievements are being obtained, to the credit of our corps of Judges, in the face of an ever-mounting workload and the considerable scheduling and travel interruptions due to this Agency's funding hiatus at the beginning of the last two fiscal years.

Complaints pending a hearing are the highest in the history of the NLRB at 1,793, up almost 39% over 1977. Our 1980 budget request anticipates only a slight reduction but no further worsening of this backlog.

We are, as you know, intensively recruiting qualified Judges and our 1980 budget request estimates Judges average employment of about 114 staff-years. Currently there are 97 Judges on board. In order to staff Fiscal Year 1980 at an average of 114 staff-years we probably will have to recruit 35-40 Judges, allowing for possible retirements. We are also carefully studying scheduling recommendations that might permit our Judges to effectively manage a somewhat larger workload and we are planning to open a New York office for Judges, both to enhance the recruitment of qualified and capable ALJs and to reduce the cost of handling the high number of cases in that geographical area.

BOARD MEMBERS' STAFF

Dealing now with the Board Members' workload, it looks to us as though the Board will be faced with the sizable task of deciding approximately 1,365 contested unfair labor practice cases in 1979 and about 1,465 in 1980. In 1978 we decided 1,146 unfair

labor practice cases, a record number. We will decide about 741 representation cases in 1979 and 763 in 1980. The Board decided 616 election cases in 1978.

In addition to the contested election cases in which the Board issued a decision in 1978, the Board also ruled on 816 other appeals and requests for review of decisions by the Regional Directors. This workload is also increasing each year and is expected to rise to 1,011 by 1980. It is our best judgment that we can handle the increases we foresee with an increase of only 6.8 professional staff-years and about 3.1 clerical staff-years of employment.

If, however, our efforts to recruit additional Judges succeed beyond our current estimate, we may have to return to you to request supplemental funds and employment to staff the Board in order to not create a new casehandling bottleneck at the Board level.

CONCLUSION

As indicated at the outset, we believe an efficient and economic use of the funds appropriated by the Congress is a byword at the NLRB. We have improved the performance of the Agency whenever possible and we pledge we will continue to do so. I respectfully submit that to maintain our high level of performance in the face of a caseload which will soon be in excess of 62,000 per year, the NLRB will need the entire amount of funds and employment that we have requested. You have always been fair to us in reviewing our budget requests and I ask only that same fair consideration again this year.

That, then, is an overview of our budget and some of the most important Agencywide matters. I leave to our General Counsel, John S. Irving, any further comments he may wish to make about our intake increases and the budget and performance matters which come under his jurisdiction.

I would be happy to answer any questions you may have.

Mr. FANNING. Mr. Chairman, I thank you for the opportunity to emphasize a few facts which I think are especially important in the consideration of our appropriation request.

HIGHLIGHTS OF NLRB REQUEST

First, even though we are requesting an increase within what we understand is a very tight budget, we are asking for less than 3.5 percent more staff to deal with an expected 6.5-percent increase in workload. This is, in fact, consistent with our record over a number of years. From 1970 through 1980 our workload will have increased about 85 percent in raw numbers, yet we are handling this work with a staff increase of less than 40 percent during the same period.

Second, we have included in our justifications for the first time, the results of our survey of just one aspect of the benefit to the economy from this agency's action. Precise economic information is hard to come by because we usually limit our inquiries in the investigation of cases to the minimum data necessary to establish

legal jurisdiction over the case. Nevertheless, we found that in fiscal year 1977, in all the cases in which a work stoppage or picketing ended while the dispute was before this agency, there were about 114,000 employees whose work had ceased or was threatened with cessation. Furthermore, the majority of these cases was in the construction industry. In those cases the NLRB had become the forum for the resolution of disputes which had affected construction projects valued at no less than $10 billion. Yet these cases account for a very small percentage of our total workload.

We are annually conducting about 9,000 secret ballot elections in which close to 500,000 workers have an opportunity to cast a secret ballot to decide whether or not they wish to be represented by a union for purposes of collective bargaining.

In our last two appearances here we have said that our greatest problem was obtaining qualified administrative law judges. While the backlog of cases awaiting hearing at the end of fiscal year 1978 increased to nearly 1,800, we are pleased to inform you of some real progress in this area. We are planning to open a branch office for administrative law judges in the New York area which would serve essentially five regions, which we expect to result in new, well-qualified applicants and a considerable reduction in travel cost. We are studying new calendaring techniques which are intended to reduce traveltime and speed up the decisional process. We also are working with agencies, where the effect of deregulation is reducing their need for ALJ's, to obtain additional qualified and productive NLRB judges.

Finally, I want to call your attention to the work of our General Counsel and the offices under his direction. They have been closing 90 percent of the unfair labor practice cases coming before the agency in a median of less than 40 days, a performance which has not been exceeded in the 15 years of available statistics.

I think those are the essential highlights that I want to call to your attention. If you have any questions, sir, I would be happy to try to answer them.

Senator BURDICK. Does any other member of the panel desire to say anything?

Mr. HIGGINS. Senator, I'm John Higgins, the Deputy General Counsel, here representing John Irving. He submitted a statement for the record. I would emphasize, that this statement highlights five particular areas that he has emphasized in his term of General Counsel: Increased performance, EEO, training, settlements, and improving the agency's data processing system.

Our record during Mr. Irving's term is a record that we are very proud of and we are very thankful to the Senate and to this committee for giving us the resources to be able to achieve these accomplishments.

[The statement follows:]

STATEMENT OF JOHN S. IRVING, GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD, BEFORE THE SUBCOMMITTEE ON LABOR, HEALTH, EDUCATION AND WELFARE AND RELATED AGENCIES OF THE SENATE COMMITTEE ON APPROPRIATIONS

February 9, 1979

I thank the Committee for this opportunity to appear in behalf of the National Labor Relations Board in support of its budget request for Fiscal Year 1980.

The Agency request for Fiscal Year 1980 is $108,050,000, an increase of $5,038,000 or 4.9% over the total of the appropriation plus pay act supplemental funds for Fiscal Year 1979. These funds will provide an average staff of 3,108 during Fiscal Year 1980, an increase of 104 staff-years over the 3,004 staff-years estimated for Fiscal Year 1979 or an increase of 3.5%. Total case intake for 1980, all of which is initially processed in one of the Regional Offices under my responsibility, will rise from 58,229 to 62,024, an increase of 6.5%. The average employment increase requested for all of the offices under the General Counsel's responsibility is about 3.1%, less than half as much as the anticipated increase in intake in 1980 over 1979.

This is the last occasion that I will appear before you as the General Counsel of the National Labor Relations Board. I am saddened because I have truly valued my relationship with the NLRB, my appearances before you on behalf of the Agency, and the many fine people with whom I have had the opportunity to work. The historical record, I feel, shows clearly that the NLRB has risen over the years to successfully confront the challenge of effectively administering the NLRA in the face of a crushing and increasing caseload. We have our problems, but I am confident that the 1980 budget request which I am here before you to discuss today will enable the Agency to meet the challenges of the future. Though I personally will not be here, I foresee no reason to diminish my expectation that the fine men and women who staff the NLRB will continue to make our Agency one of, if not the most, effective of Federal agencies.

In the discussion which follows, I have attempted to briefly set forth the responsibilities of the Office of the General Counsel, the problems which we faced in 1978, the accomplishments in 1978, the challenges we are currently facing, and the plans we have for 1980.

RESPONSIBILITIES OF THE OFFICE OF THE GENERAL COUNSEL

As you know, the National Labor Relations Act as amended (29 U.S.C. 141-167) provides that "the General Counsel shall exercise general supervision over all attorneys employed by the Board (other than Administrative Law Judges and Legal Assistants to Board Members) and over the officers and employees in the Regional Offices. He shall have final authority on behalf of the Board, in respect of the investigation of charges and issuance of complaints under Section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe. . ."

As a result of this statutory authority and the authority delegated to the General Counsel by the Board under the statute, the General Counsel is responsible for the operation of the Agency's 33 Regional Offices, for the supervision of all court litigation before and after Board decision, and for the supervision of the Agency's Division of Administration.

ACCOMPLISHMENTS

I am proud of the accomplishments we achieved in 1978 and of our record thus far in Fiscal Year 1979.

Our accomplishments in Fiscal Year 1978 included:

1. Closing over 90% of the over 39,600 unfair labor practice charges coming before the Agency in a median time of 39 days compared with 37,800 charges in 41 days in 1977.

2. Issuing a record 5,335 complaints in a median time of 47 days compared to 48 days and 55 days in the previous two years, respectively.

3. Settling an Agency record of 9,693 cases, up from 9,019 last year.

4. Distributing a record $16,897,113 in backpay and fees, dues, and fines, up 26.4% over 1977.

5. Achieving 5,344 offers of reinstatement of which 3,192 were accepted. Getting so many people back to work substantially diminishes the effects of labor disputes.

6. Issuing Regional Director's decisions in contested representation cases in a median of 45 days compared to 47 days last year.

These are highlights only. There are many similar examples of the effectiveness of the effort of our Washington and Field staffs.

Our Justification contains some rather significant displays. The "pie" charts on pages 12 and 13 of our Justification show how our cases were disposed of in Fiscal Year 1978 compared to the 1977 disposition pattern. Page 12 shows the disposition pattern of unfair labor practice cases. As you know, all unfair labor practice charges are investigated. In 32.5% of the total, the charging parties voluntarily withdrew their charges and the cases were closed. In another 36.8% of the total, the charging party, upon being told that the investigation did not find merit, did not voluntarily withdraw the charge and the case was dismissed. In such cases the charging party is given the opportunity to file an administrative appeal from the Regional Director's dismissal of the charge. In Fiscal Year 1978 nearly 32% of these dismissals were appealed.

The remaining unfair labor practice charges, 30.7% of the total, were those in which our investigation resulted in a determina-

tion that the charge appeared to have merit. Of the entire number of unfair labor practice cases found to have merit during 1978, 82.2% were closed by being settled without the need for a formal hearing. Thus far in 1979, we are settling cases at an 87.3% rate. In the remaining cases in which merit was found, formal proceedings involving hearings and in most instances Administrative Law Judges' decisions were required. The cases which reached the stage of review and decision by the Board itself represent only 3.0% of the total case output. About 39.4% of the cases decided by the Board (452 cases) proceeded to the U.S. Circuit Courts of Appeals for review or enforcement.

Page 13 of our Justification shows the pattern of disposition of representation cases. To briefly summarize, 23.0% of the representation petitions were withdrawn, 6.0% were dismissed on grounds that no question of representation was presented, 54.4% resulted in voluntary agreement for election and 0.4% represented expedited elections. In the remaining 16.2% of the representation cases, hearings were held, but Regional Director decisions were required in only 14.9% of all the representation cases. In 1978, Regional Directors issued 1,875 decisions in 45 median days, compared to 2,222 decisions in 47 days in 1977.

It is apparent from this analysis that it is fortunate that the great mass of cases coming before the Agency are disposed of at the Regional Office level without resort to formal hearings and litigation or action at the Board level in Washington. It is formal action which puts the greatest strain on the budgetary and personnel resources of the Agency and which contributes greatly to time delay in the processing of Agency cases. Litigated unfair labor practice cases cause a much greater financial burden than contested representation cases.

Let me stress that in the unfair labor practice area, 90% of the charges filed are investigated and disposed of informally, in a median of only 39 days in Fiscal Year 1978. Of the cases which are found to have merit, over 82% are settled without the need for prolonged and costly litigation. And when a merit case does not settle, the General Counsel is usually prepared to go to trial within six to eight weeks of the time the charge was filed.

In the representation area, 83.4% of the cases are closed at the Regional Office level in a median of 56 days without the necessity of formal proceedings. This includes some 8,250 cases which proceeded to an election.

We have placed great stress on our settlement program and Page 12A of our Justification graphically displays the results of the program. The voluntary adjustment of labor disputes is the central purpose of the Act. When we are able to bring about a settlement early in a labor dispute, we have achieved that purpose and have provided the public with the service they need. It is critically important that we have the personnel we need to administer our settlement program and that this settlement effort be unhampered by budgetary or travel restrictions.

CHALLENGES FOR 1980

Our challenges are not new. They are recognized, but being recognized and even acted upon does not diminish their importance.

We must continue our efforts at settlements. Maintaining a high level of voluntary settlements requires the dedication and vigilance of our casehandling professionals. I have stressed the importance of resolving the issues brought to us at the earliest possible stage of case processing before these disputes reach the costly, time consuming stage of litigation. Most importantly, early resolution of a dispute reduces the economic impact this dispute has on the employees and company involved and our Nation.

Nowhere is this economic impact more clear than in the construction industry, where major losses in business revenues and employment may result from preventable strikes and picketing. A partial survey of cases closed by the NLRB in Fiscal Year 1977 shows that in close to 200 cases where a work stoppage or picketing was ended, there were construction projects affected which were valued at several billion dollars. Over 100,000 employees were affected in these disputes, yet these cases constituted less than one percent of the number of cases we received. Clearly the benefit to the Nation from work in this area alone is many times greater than the cost.

We must continue our efforts to end the log jam of cases at the Division of Judges. The Chairman has discussed some of the actions we are taking to address the Judges issue and he has my wholehearted support. Some of the actions regarding scheduling deeply involve the Regional Offices, and we are working very closely to make them work.

I also want to bring to your attention the adverse impact of disruptions in Agency funding that occurred early in Fiscal Year 1978 and Fiscal Year 1979 with the dispute over the HEW provisions in the Labor/HEW appropriation bill. In Fiscal Year 1979 alone almost 700 investigations of unfair labor practice charges were delayed. Over 100 ULP hearings were postponed or cancelled as were over 90 R-case hearings and over 175 elections. This funding hiatus has clearly been a severe impediment to our case processing and settlement efforts. During these delays attitudes harden, and further abuses may flourish. Settlement becomes more difficult and costs to the parties and the government rise. This is particularly regrettable when the issues which caused the delay in our funding were totally unrelated to this Agency's mission.

In the interest of brevity, I will not repeat the detail of performance already in our Justification of each of the divisions and sections under the responsibility of the General Counsel. I will, of course, respond to any questions, though, that you might have. There are, however, a couple of other areas I would like to touch on before I close.

As you know from my past appearances before you, one of my major goals has been to continue to improve our equal employment opportunity program with emphasis on developing minorities and women so

that they are prepared to compete for managerial and supervisory positions. This goal can be realized only to the extent that we are successful in recruiting and retaining minority and female employees. During the past 7 years, the Office of the General Counsel in Washington and the Field has hired 1,185 full-time professionals, of which 616 or 52% have been minorities and women. In the past 2 years we have appointed 15 women and 7 minorities (three women) to supervisory and managerial positions. The Agency will continue in its endeavor to improve opportunities for qualified women and minorities to advance into such positions. I am pleased to report that we have graduated our first class of Field Examiners from the Bridge Program which is another facet of our upward mobility program. At the annual Incentive Awards Ceremony on November 2, seven clerical employees were officially converted from Bridge Program Trainees to Field Examiners. Of the seven Trainees, three (42.8%) are minorities and all seven are women. Having completed the 3-year training program, they will now begin their new careers as Field Examiners. We are very proud of these employees and look forward to additional graduates in the future. Similar programs are being conducted in other divisions of the Agency.

My last comment before closing deals with our long effort to develop a new computer based case handling information system. We are well under way and will soon begin initial testing in selected Regional Offices. I consider the success of this system an essential tool to allow the General Counsel who follows me to be able to manage our estimated 62,000-plus 1980 caseload.

In closing, I want to thank this committee for your help and understanding. We have been able, because of you, to carry out our mission of trying to provide acceptable service in all of the areas which are significant in the operations under the supervision of the Office of the General Counsel. For the coming year the Agency dedicates itself to the continuation of this effort. Though this is now the last time I will have the pleasure of appearing before you in behalf of the Agency as General Counsel, I will continue to keep my pledge to work long hours and do my very best to fulfill all of my obligations in the months to come.

Thank you.

Senator BURDICK. Anybody else?
[No response.]

BASIS OF WORKLOAD ESTIMATES

Senator BURDICK. Well, the first question I want to ask is why do you expect the 6.5-percent increase in the workload?

Mr. FANNING. I could only answer that this way, Senator. That has been practically the yearly experience since I have been on the Board, since 1957. For example, in 1957, our total caseload was 16,000 cases. Now it is over 50,000, approaching 60,000. Why the increase?

Well, I think probably there are more people very simply. There are more employees. There are more jobs. I think those are good signs. I think people are aware more and more of our availability, to wit, 9,000 elections a year and some 40,000-odd unfair labor

practice cases a year. We do not initiate cases as you know. We do not invite cases to come in.

People come to us and either complain that they have been discharged for improper reasons or say that a number of employees or qualifying number of employees want us to run an election to decide whether or not they could be represented by a union.

We've tried time and time again to find out why the increase and I can only answer you in those general terms. We come up with the figures by a very conscientious survey conducted by our regional directors in all parts of the country who look for local signs, indications that the unions are going to be engaging in organizing campaigns. For example, quite recently,the building trades indicated that they were going to mount a rather extensive organizing campaign. We don't have any perfect answer, sir. That's about the best I can tell you.

Senator BURDICK. In barbershop magazines I read that union memberships have not been growing.

Mr. FANNING. Well, I think the union membership has slipped. I have read the same barbershop magazines I guess and a few others, and I think the figure is under what the union figures were a few years ago. I don't know. I'm not an economist and I don't try to explain why the unions are growing or not growing. Some are growing very, very much, as you know, but we get a lot of complaints from nonunion companies, for example, or nonorganized companies. It isn't only situations involving unions that we get involved in. We get, for example, complaints from people who are being hurt by secondary boycotts or things of that kind.

I'm confident that the estimate that we have made is proven by the reliability of our estimates in previous years and by the trends that have been going on for 15 or 20 years. But why? I don't know.

ADMINISTRATIVE LAW JUDGE DELAYS

Senator BURDICK. There seems to be an increasing problem of delays in unfair labor practice cases. The major problem appears to be at the administrative law judge level.

Mr. FANNING. That's correct.

Senator BURDICK. What has the Board done to solve the delays in the issuance of administrative law judge decisions?

Does the Board foresee a continued timelag in the issuance of administrative law judge decisions?

What will the Board do in the next fiscal year to cut the total time required in unfair labor practice cases?

Mr. FANNING. You will recall, Senator, when I appeared before you last year I complained that we didn't have enough authorization in grades to hire enough judges. I told you about a bill that was pending before Senator Sasser's committee that would have given us—well, it would have created 100 additional authorized administrative law judge slots of which we felt we had a strong commitment for 30. That bill was finally passed and approved by the President and since May of last year we have been able to go out and recruit judges. It's a very difficult job to fill for various reasons.

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The first problem we had was housing. Our judges have been located as tenants in the Bureau of National Affairs Building for some years. Our lease expired and they wanted their space back, quite properly, for their own expansion reasons, and we had a devil of a job trying to get space—adequate space, but more space to take care of more bodies. We negotiated for months with various agencies around town and we turned down some places like Buzzard's Point and some of the less desirable places.

We have finally solved that problem and we are now moving our judges into what is the old Hamilton Hotel building at 14th and K Streets, which is being rehabilitated for us. We are going to get the top 4½ floors. They promised us we can move in this month, maybe by the 20th of February, and that will cure the space situation we have had.

RECRUITMENT TO FILL VACANCIES

Second, we have recruited extensively. Every time a Board member appears anyplace or makes a speech anyplace he talks about the need for additional judges. The problem of getting judges is a very difficult one because, in all candor, it's not an attractive job. It pays $44,000 a year to start. If you want the quality that we need to avoid wasteful processes along the line, the kind of people that we want are already making that in the private sector or many of them in government, and so it's a very difficult thing to recruit. But we think we have made some progress.

DECENTRALIZATION

We have decided to decentralize the ALJ function, as I mentioned in my statement. We are going to open an office in New York first and if that is successful open others around the country. We think that will solve one problem.

Many judges or many prospective applicants have told me that they would love to be a judge but they are afraid of Washington. Washington is a high-cost area. Their families are located wherever they happen to be living—Atlanta, Dallas, or Houston or someplace. They don't want to move to Washington. There isn't enough money involved to attract them to move to Washington. They have to sell their house and buy another house in a high-cost area, and the result is that they have not been enthusiastic.

We anticipate, as a result of our announcing that we are now going to a decentralization program, that we will get a lot of applicants. We are already aware of about 16 applicants in the New York area, and that's a very busy area. That will service offices in Manhattan, Brooklyn, Newark, probably Philadelphia, maybe Boston, and a cluster of things. That's one thing we're doing.

SCHEDULING OF UNFAIR LABOR PRACTICE HEARINGS

Second, we are studying what I would call changing the scheduling of cases. In other words, we are now conducting a study whereby we will group cases. Traditionally, the Board in an unfair labor practice case has sent a judge out to the scene of the crime, as it were. Well, sometimes he gets there and the case washes out, as

you know, by settlement or something of that kind. Sometimes there isn't an airport nearby and then he has to fly to an airport and rent a car and drive 100 miles. It's timewasting and expensive and if the case washes out there are no other cases in that area to assign him to.

So we are now studying a system whereby we can cluster cases for hearing and try to cluster them in communities where air transportation is available so that a judge can go in and hear several cases. We are trying to change our docketing system to that effect.

Third, we are exploring with other regulatory agencies the availability of some of their judges. As a result of the deregulation process now in effect some of their judges are available and are interested in working for us. We are currently working out with the CAB, for example, a loan of some of their judges to see whether they like us and whether we like them.

So I think we have made tremendous strides. I am optimistic that the combination of all of these will give us the extra 30 judges that we need and that we will be able to cut the hearing time or the scheduling time. Right now we are scheduling cases for hearing in 5 or 6 months. That is by far the longest period in our decisional process and is really downtime. A couple years ago it was 4 or 5 weeks, but the sudden increase in volume has pushed it up to 5 or 6 months now and there's no question that that is our No. 1 bottleneck in getting cases out. But I think we have made substantial progress.

AGE OF PROSPECTIVE EMPLOYEES

In fact, in the past year we have hired 12 judges. Unfortunately, people die and people retire. We have lost five judges. You see, at one time, the age of our judges was a factor. Just a few years ago our average age for our judges was somewhere between 57 and 59 years old. We are now bringing it down to under 50 and hopefully closer to 40. It's easier for a man of 40 to travel 2 weeks a month like our judges are now doing. If we cut down the time on hearing and give more time to writing decisions, we can get the cases out quicker. So we are working on it.

Senator BURDICK. Do you frown on any young lawyers—not recent graduates, but——

Mr. FANNING. At my age, I would hardly frown on——

Senator BURDICK. You mean to say they are not attracted by a $44,000 job?

Mr. FANNING. Well, there are requirements. For example, Civil Service requires that you have 7 years of experience in the labor relations' field and by the time the young person gets out of law school and gets a minimum legal experience, then acquires the 7 years of litigating experience, it's a difficult job to qualify for.

We have hired recently some men and women in their thirties and we look forward to 25 years of productivity from them, and we will not have the retirement problems and the physical problems with them.

BOARD ACTION ON INCREASED WORKLOAD

Senator BURDICK. What action has the Board or the General Counsel taken in the last year to improve its handling and speed the final adjudication of cases? Is there any action which the Board might take to slow the rate of increase of new case filings? Do you expect the workload of the Board to continue at this rapid rate? We have touched on some of this, but do you care to answer that?

Mr. FANNING. Well, we have considered several things, but we have had to conclude that under the statute as presently drafted we cannot refuse to accept cases over which we have legal jurisdiction.

Frankly, we think some cases should never have come to us—go away, don't bother us. They have a legal right under the statute to come before the Board and sometimes they do. I sometimes think that if there was a little more enlightenment on both sides they could resolve the problem themselves, but they don't, for whatever reason prompts them.

So far as the volume is concerned, under the present statute I think we have little or no discretion to refuse to accept cases. From time to time even the Congress gives us a new jurisdiction. For example, in 1974, as you know, they gave us jurisdiction over the health care field.

I would say today that a very, very large number of our cases, well into several thousand, come from the health care field. It's a new field. The hospitals, the nursing homes, and what have you are subject to organizational efforts by the unions who represent employees of that character and they come to us to run the elections. They come to us with their unfair labor practice problems for key decisions on the extent to which the unions can organize or picket or distribute literature and get cards and so forth.

So as to cutting down the volume, I see little prospect of that, in my best judgment.

As to whether we could speed up the process, of course, we are always trying to speed it up and in fact in the past year the Board issued more decisions than any year in its history. It was a banner year for the Board and the General Counsel in his litigation experience has improved his efficiency record very substantially. In fact, most of our cases—I would say 90 percent of our cases today—are disposed of in the field without coming into Washington in probably 40 days.

Mr. HIGGINS. Senator, if I may add to what the chairman said, I think in most of the time performance categories in the field operation you will see that this past year there was a fairly substantial reduction in the timelag processing of these cases.

CONTROL OF WORKLOAD AT THE SOURCE

On the question you asked about reducing filings, we have in the past year in the General Counsel's office taken a look at what's called our OD function, our officer of the day function, in our regional offices. This is the contact person that citizens meet when they come in and request information or request to file an unfair labor practice charge. We conducted an experiment in an attempt

to see what methods could be developed to both improve service to the public and at the same time perhaps reduce intake. We have had some initial good experience with that. We are right now in the midst of—in fact, today, this morning before I came up here, I spoke to a group of our field examiners who are in Washington on a training program emphasizing this officer of the day function. They are being trained this morning on some of the techniques that we developed as a result of this experiment. We want to provide better service and at the same time perhaps reduce some of the intake on cases that ultimately will have no merit but which clog our channels in the investigative process.

So while the chairman is correct, in that there's no way we can preclude an individual employee or union from filing an unfair labor practice charge, we are and have in the past year tried to emphasize more and more this officer of the day function as a means of both providing better service and perhaps reducing some of that intake.

Senator BURDICK. Would that lend itself to some kind of a summary proceeding where you can dispose of these cases that are patently without merit on the face?

Mr. HIGGINS. This would be in the investigative process, Senator. This is where an individual comes in and is really seeking guidance.

Mr. FANNING. Might never become a case, sir.

Senator BURDICK. I see.

Mr. HIGGINS. It would be an opportunity for us perhaps to direct individuals to an agency that can help them rather than perhaps taking a charge and taking a look at it and finding out that it really isn't a case involving NLRB. Most of that has been done in the past. What we are trying to do now, however, is see if there aren't additional techniques and additional means by which we can assist the inquirer and at the same time perhaps avoid the filing of an unfair labor practice charge.

SUMMARY DISPOSITION OF CASES WITHOUT MERIT

Senator BURDICK. Do you have a proceeding available to you where something is very patently without merit to dismiss it summarily in some proceeding?

Mr. HIGGINS. That's really the Office of the General Counsel in a sense because the statute provides or gives the General Counsel the right and the authority to refuse to process an unfair labor practice charge if he determines it has no merit, and that decision is unreviewable.

Senator BURDICK. Unreviewable?

Mr. HIGGINS. Yes; so in the course of a year of 100 percent of the charges filed with the agency, we found merit and intend to prosecute, in the absence of settlement, only 34 or 35 percent. The rest of them are resolved either by a dismissal of the unfair labor practice charge or a withdrawal. Over 90 percent, as the chairman indicated, of the unfair labor practice charges that are filed with the agency are resolved in the regional office without ever coming to Washington, and the national median for that resolution is about 42 days.

LEGISLATION AFFECTING ADMINISTRATIVE PROCESS

Senator BURDICK. Does the Board plan to make any changes in the areas of administration of the National Labor Relations Act that were matters of legislative activity in the 95th Congress, such as speedier representation elections, increased rulemaking by the Board, or seeking to deter violators through greater use of court injunctions?

Mr. FANNING. I would have to say, sir, that we have no legislative plans. That's a matter that I think is within the responsibility of the Congress.

Senator BURDICK. Yes, I know that it is, but sometimes we get requests and recommendations.

Mr. FANNING. We are very interested in a couple things that are pending. Senator Ribicoff's bill, S. 262, which I just got a copy of yesterday, which appears to make some changes in the administrative processes of the Board, due process procedures, and particularly the appointment and continuation of administrative law judges, but I'm really not prepared to discuss that this morning.

Senator, some of the other things—I suppose the Congress is going to reconsider the labor reform amendments that they considered in the last session. We'll certainly wait until the Congress makes its decision. Otherwise, there are always administrative ways in which we can shorten the process.

Senator BURDICK. You have nothing specifically at the moment?

Mr. FANNING. No, sir.

PRESIDENT'S HIRING FREEZE

Senator BURDICK. What impact will the executive branch's hiring freeze have on Board operations? Do you see any improvement with respect to filling administrative law judge positions due to the new civil service reform legislation passed in the 95th Congress?

Mr. FANNING. Well, the administrative law judges were largely exempted from the civil service reform legislation. I think that filling one out of two vacancies hurt us a bit, yes, but I think that's been removed and I don't see any serious problem as a result of the freeze.

Now if we had more people, of course, we could turn out more cases and there may be some slight or minimal increase in pending caseload because of a lack of people, but I wouldn't think that's a serious problem, no.

GAO REPORT ON ADMINISTRATIVE LAW JUDGES

Senator BURDICK. Well, listen carefully because we have a little longer question now. This will be our last question.

Has the Board taken any actions to implement recommendations of the General Accounting Office in a May 15, 1978, report on the administrative law process?

To give you some background that you probably already know, GAO cited extensive agency review of administrative law judge decisions and the use of complex judicial procedures in resolving disputes as the major causes of delays in the administrative process.

The GAO report recommended that the agencies which use ALJ's should establish procedures which would preclude extensive review of administrative law judges' decisions; establish one central body to conduct case reviews when necessary; establish objective performance standards delineating what is expected of all administrative law judges in terms of quality and quantity of work; and see that an effective financial disclosure system is implemented.

That's a big order, but do your best with it.

Mr. FANNING. Actually, we had something to do—you recall last year when I appeared before you I mentioned that this GAO report was in the process of being prepared. We were consulted. We made some contribution.

We agree with some of the observations in it. My principal criticism of it is that it requires legislative implementation. Under our statute, anybody who feels aggrieved by a decision by the administrative law judge has the right—the right—to appeal to the Board and the Board under the statute has to give that individual complete de novo review of the entire record. Some lawyer on my staff has to read what may be anywhere from a 300 to a 10,000-page record. This takes time. We do have a summary judgment procedure in some cases, cases where the individual employer is refusing to recognize the union after we have certified the union and there are no issues except the question of court review, and we do that in the space of a couple weeks. We issue summary judgments on the basis of which the employer can go into a circuit court of appeals and get review.

SENATE BILL ON ADMINISTRATIVE LAW JUDGES

Many of the things that are in that GAO report I suspect are in Senator Ribicoff's S. 262. I haven't had a chance to read it yet, so I can't tell you in what detail, but I think most of the things recommended by GAO that we can do, such as standards for production, production standards for judges and things of that kind, we do have; but we had them in effect long before GAO recommended them in its report.

The things we have not put into effect, in my judgment, are things that would require amendments of the Administrative Procedures Act and we have not yet commented on Senator Ribicoff's bill and I think at one time Senator Kennedy may have had a bill. But these are long-range things. They are not immediately useful, in my judgment.

Senator BURDICK. Well, we may have some further questions which we will submit for the record, but at the moment we will call that adequate for the morning.

Mr. FANNING. Thank you, Senator.

Mr. BURDICK. Thank you for being here.

Mr. FANNING. I appreciate the opportunity to appear before you.

FEDERAL MEDIATION AND CONCILIATION SERVICE

STATEMENT OF KENNETH E. MOFFETT, DEPUTY DIRECTOR

ACCOMPANIED BY:

WILLIAM P. HOBGOOD, DIRECTOR OF MEDIATION SERVICES
SCOTT A. KRUSE, GENERAL COUNSEL
NANCY B. BROFF, GENERAL ATTORNEY
ROBERT P. GAJDYS, DIRECTOR OF ADMINISTRATION
JOHN R. STEPP, NATIONAL REPRESENTATIVE, TECHNICAL ASSISTANCE COORDINATOR

BUDGET REQUEST

Senator BURDICK. The next panel will be the Federal Mediation and Conciliation Service, with an appropriation request for fiscal year 1980 of $23,075,000, which is a decrease of $139,000 from fiscal year 1979. Here to explain the request is Kenneth Moffett, Deputy Director of the Service. Please introduce your colleagues.

INTRODUCTION OF ASSOCIATES

Mr. MOFFETT. Thank you, Senator. I apologize for the absence of our Director, Mr. Wayne Horvitz, who is out of the country for the next 2 weeks and did not know that the hearings were going to be coming up when they did.

I'd like to introduce Mr. William Hobgood who is our Director of Mediation Services; Scott Kruse, our General Counsel; Nancy Broff, our General Attorney; Bob Gajdys, our Director of Administration; and John Stepp, National Representative-Technical Assistance Coordinator.

[The statements follow:]

Statement by

Kenneth E. Moffett, Deputy Director

Federal Mediation and Conciliation Service

before the

Labor; Health, Education, and Welfare Subcommittee

of the

Senate Committee on Appropriations

Mr. Chairman and members of the Committee:

It is my pleasure to present to you the Fiscal Year 1980 appropriation request for the Federal Mediation and Conciliation Service.

Before getting into the substance of this budget request and what we see happening in Fiscal Year 1980 and what our responses will be, I'd like to say a few words in general about the overall request that is before you.

You can see at a glance that we are asking for less money and fewer positions than we were authorized in Fiscal Year 1979.

This does not mean that I think there will be less work for us to do.

What it does mean is that this Administration is taking seriously the commitment that it has made to work for more efficient government.

Now when an agency such as ours comes under pressure to cut costs and reduce staffing, there are two routes that we could take.

The easier and simpler approach would be to take a single percentage figure--such as five percent, for example--and cutback across the board that amount.

The more difficult and complex approach, however, is to analyze the entire operation of the organization, even down to the productivity of every single employee, and make cuts and reductions that have the least effect on our ability to provide the services the labor-management community expects from us.

This is the approach we have taken, and one that I am confident will, in the long run, make us a more efficient and productive agency.

With that introduction, let me proceed to tell you specifically what this agency will be doing in Fiscal Year 1980.

The Bargaining Climate

By now I'm sure all of you are aware that the voluntary wage-price guidelines have complicated the collective bargaining process.

I was involved in the oil industry negotiations in early January and, speaking very candidly, let me say that it was very difficult for the two sides to bargain with the guidelines hanging over them.

Fortunately, we came through that one, but we may or we may not be so fortunate in the months ahead. There are major contracts in the trucking industry, the rubber industry, the electrical manufacturing industry, the auto industry, and the farm equipment industry coming up before Fiscal Year 1980 begins in October.

And even though I survived my initial baptism of fire under guideline negotiations, I would not want to make any predictions at this time about how successful those negotiations will be, except to predict one thing, and that with certainty: that those negotiations will be extremely difficult and complicated.

I'm focusing on Fiscal Year 1979 because traditionally what happens in major negotiations in one year sets the stage for what we can expect to see happening in smaller negotiations in the next year.

Our mediators in cities all across the Nation will be entering negotiations in Fiscal Year 1980 in which the parties are looking at the patterns set in their industries in major negotiations in 1979. And if those major negotiations were tough and complex, you can be sure the ones that follow will be too.

And--and I'm only saying this because it's a possibility--if the wage-price guidelines are modified or changed, it's going to make attempts to follow patterns even more difficult in Fiscal Year 1980.

Major Industry Negotiations

Although I emphasize the large number of smaller negotiations--pattern followers--that will take place in Fiscal Year 1980, there are some major negotiations as well.

The steel, aluminum, and container industries will be bargaining toward new national agreements; and the telephone workers, represented by four unions, will be negotiating with AT&T for the wages and working conditions of more than half a million employees.

There will be major negotiations as well in the aerospace industry, in restaurants and entertainments, in glass and utilities.

The large number of employees affected by these major negotiations plus the great number of smaller negotiations that usually follow settlements in the trucking and automotive industries will make Fiscal Year 1980, in all probability, the busiest year in the private sector for federal mediators since Fiscal Year 1977 (which was, of course, very similar in terms of the number and kinds of industry contracts up for renegotiation).

Here, I'd like to add an additional comment. So far we haven't seen much of it, but there is a strong possibility that many unions that ordinarily bargain for two and three-year contracts will begin bargaining for one-year contracts.

This has been the pattern in the past when controls have been applied and, although the guidelines aren't, strictly speaking, controls, to the extent that they potentially hold down wage increases, their impact is the same.

Thus, there is some evidence that by Fiscal Year 1980 we may be seeing some one-year contracts that were negotiated in Fiscal Year 1979 back up for renewal, adding to our caseload.

There are a few other things I'd like to mention before leaving the private sector.

There are some major industries that do not bargain nationally and, because they don't, they seldom receive the attention that single national contracts get.

Three of the most important are: the retail food industry, the health care industry, and the construction industry.

For the last decade, the FMCS has been paying particular attention to the retail food industry. And as many of you know, I served as chairman of the Joint Labor-Management Committee of the Retail Food Industry before I became Director of the Mediation Service, so I have a special interest in this industry myself.

It may interest you to know that in just 50 sets of contract negotiations that will take place in the food industry in Fiscal Year 1980, more than 250,000 employees will be affected.

Contracts covering 50,000 workers will expire in northern and southern California. Another 30,000 workers are covered by contracts expiring in the Washington-Baltimore area, as are some 25,000 employees in the Chicago metropolitan area.

So you can see quite clearly that the retail food industry ranks high in importance in collective bargaining.

The Mediation Service's involvement in the health care industry does not go back quite so far. As this committee is well aware, most hospitals, at least nonprofit hospitals, were exempt from federal labor law from 1947 until 1974, when Congress enacted Public Law 93-360.

This Law brought all private hospitals and health care facilities under federal jurisdiction and set up special provisions for bargaining that include special roles for FMCS.

You might be interested to know that today almost five million persons work in the health care field, making it a larger industry than auto manufacturing, farming, or even the federal government.

Although it is a large industry, it has, until comparatively recent times, remained largely unorganized; but that seems to be changing.

An American Hospital Association survey conducted in 1970 showed only about 16 percent of its members had one or more union contracts. By 1976, that percentage had increased to 23 percent and is still growing.

Thus, for two reasons--because of our special role under the health care law and because of the growing rate of organization in the health care field, we expect to have a continuing growth in our caseload in this industry.

Since this committee was instrumental in that legislation, you might be interested in a few things we've found out since the Law's inception.

In the four-and-a-half years that the law has been in effect, we have recorded 270 work stoppages in the health care field. This total amounts to between four and five percent of all disputes in the industry and is approximately the same percentage of strikes and lockouts as occur in the manufacturing and service industries.

The other point worth mentioning is that we have greatly reduced the frequency of boards of inquiry appointments in disputes--partly as some of you know because of the literal interpretation that the courts have applied to the provision for filing notices by the parties which makes it possible for them to frustrate the intent of the Law on BOI's--but largely because we find that the traditional tools of mediation are usually enough to get the job done.

The third major field that bargains regionally and locally is the construction industry.

In recent years, this industry has experienced strong competition from nonunion contractors and as a result there have been fewer strikes and lower settlements. I expect this trend to continue.

Public Sector Negotiations

One field that will not be easier in Fiscal Year 1980 is the public sector, and I am including here both the federal sector and state and local negotiations.

The same fiscal pressures that have caused this agency to trim its operation are forcing local governments to be extremely tight-fisted at the bargaining table.

So far, the bargaining record, while not good, has not been awful. But if you will think back just a short while ago to last summer, you'll recall firefighters' walkouts, police sickouts, and many teachers' disputes.

We will be involved in many of these, but where our caseload is rising the fastest is in the federal sector. Not only are we becoming involved in more negotiations between federal unions and agencies, we are spending more time doing it. These negotiations often drag out because there are no strike deadlines and because the issues are often muddied and it's not always clear what can and cannot be bargained.

To make our mediators more effective in this area, we have been holding special training workshops and by Fiscal Year 1980, more than 25 percent of our mediators will have gone through one or more of these programs.

New Programs

While FMCS will continue to focus most of its effort on resolving labor-management disputes, the Service may participate in FY 1980 in an innovative program for the resolution of age discrimination issues.

FMCS has worked with HEW in planning a novel program for the enforcement of the Age Discrimination Act of 1975, which would involve FMCS in attempting to resolve complaints of age discrimination informally prior to the initiation of formal enforcement proceedings. This budget submission includes a request for staffing and funding to implement this proposed program.

Other Program Activities

The Service's technical assistance program includes a wide range of preventive-type activities designed to develop deeper understanding of the collective bargaining process by both parties prior to the expiration of the contract. By the end of the current fiscal year, the Service will have participated in and closed approximately 1,174 technical assistance cases covering all sectors of the economy. TA activities include assistance in forming or participating in area and industry labor-management committees, conducting foreman-steward training programs, consultation and liaison work with company and union officials, and the conduct of the highly successful "Relations by Objectives (RBO)" program developed by the Service.

The Service's public information and educational activities play an important role by providing the labor-management community and the public with a fuller understanding of its role. The long-range benefit from these activities will be a further reduction in strikes and their duration.

In the United States, grievance arbitration--and more recently, interest arbitration--as an alternative to strikes has been a unique achievement of our industrial relations system. These approaches differ radically, both as concepts and practices from experiences in any of the industrialized nations. The impact of arbitration on the economy of the Nation, because it does serve as an important alternative to costly and lengthy work stoppages, is immeasurable. The growth in the use of arbitration has been enormous, and it will undoubtedly increase.

The use of FMCS arbitration services has risen rapidly. It is anticipated that by the end of the current fiscal year, the Service will submit more than 28,000 panels of arbitrators to the parties. Every year this number increases. Comparable increases have occurred in the number of requests received, and the number of arbitrator appointments.

The Service's Office of the General Counsel will continue to be involved in legislative and interagency programs, policy development, the legal aspects of the arbitration program, and dispute mediation.

The Service's management in Fiscal Year 1980 will plan and evaluate programs to measure the quality of the agency's accomplishments as well as the quantity.

We recently reinstituted an internal agency audit program to review workload on a station-by-station, mediator-by-mediator basis.

This program will continue in Fiscal Year 1980 and will, in my opinion, give us information we need to make quick adjustments to changing geographical, industrial, or other patterns.

The Service's management and administrative programs support the Service at the regional, field, and national office levels. Major support duties include personnel management, budget and financial management, management information services, administrative services, legal services, research and development, planning and evaluation, employee training, and program effectiveness.

FMCS has initiated a significant personnel training and development program to provide employees with specialized skills training in job-related areas.

The President's goals and objectives in recruiting and training of minorities, women, and the handicapped to fill jobs at all levels in the Service is part of our personnel program and will be pursued in Fiscal Year 1980. One of the reasons for the very careful procedures used to cut back positions that I referred to in the opening of my statement was to insure that recently hired employees, including women and minorities, would not be the first to go in a cutback.

Summary

In terms of employment, the Service's full-time employment ceiling for Fiscal Year 1980 is 515 permanent positions, a reduction of 25 positions below the initial authorization in the appropriation for FY 1979.

Although I anticipate an increase in our dispute and arbitration caseload in Fiscal Year 1980, I also am confident that the increased workload can be effectively handled. However, to compensate for the additional mediator time required to handle the increase in dispute workload, our technical assistance and public information workload may decrease in FY 1979 and FY 1980.

The appropriation request for Fiscal Year 1980 is $23,075,000, a decrease of $139,000 from Fiscal Year 1979.

Budget tables for Fiscal Year 1979 and 1980 beginning on Page 2 of the justification material provide a summary of these estimates by object class. A more detailed analysis of staffing and financial requirements is presented beginning on Page 43.

Mr. Chairman, I will be happy to respond to any questions you may have.

STATEMENT OF KENNETH E. MOFFETT, DEPUTY DIRECTOR, FEDERAL MEDIATION AND CONCILIATION SERVICE

It is my pleasure to present to you the Fiscal Year 1980 appropriation request for the Federal Mediation and Conciliation Service.

You can see we are asking for less money and fewer positions than we were authorized in FY 1979. This Administration is taking seriously the commitment that it has made to work for more efficient government.

Although this agency is becoming leaner, the workload is not.

There are major contracts in the trucking industry, the rubber industry, the electrical manufacturing industry, the auto industry, and the farm equipment industry coming up before FY 1980 begins in October.

In FY 1980 the steel, aluminum, and container industries will be bargaining toward new national agreements; and the telephone workers, represented by four unions, will be negotiating with AT&T for the wages and working conditions of more than half a million employees.

In addition to major national agreements, many workers are affected by regional and local negotiations. In the retail food industry, more than 250,000 employees are covered by 50 different agreements expiring coast-to-coast.

Today the health care industry, with almost five million employees is larger than the auto industry, farming, or even the federal government. Thus, because of our special role under the health care law and because of the growing rate of organization in the health care field, we will have a heavy caseload in this industry.

A third major industry that bargains regionally and locally is the construction industry. In recent years, this industry has experienced strong competition from nonunion contractors and as a result there have been fewer strikes and lower settlements. I expect this trend to continue.

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The large number of employees affected by these major negotiations plus the great number of smaller negotiations that usually follow settlements in the trucking and automotive industries will make FY 1980, in all probability, the busiest year in the private sector for federal mediators since FY 1977.

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One field that will not be easier in FY 1980 is the public sector, which includes both the federal sector and state and local negotiations.

The same fiscal pressures that have caused this agency to trim its operation are forcing local governments to be extremely tight-fisted at the bargaining table.

Our caseload is rising the fastest in the federal sector. To make our mediators more effective in this area, we have been holding special training workshops and by FY 1980, more than 25 percent of our mediators will have gone through one or more of these programs.

New Programs

While FMCS will continue to focus most of its effort on resolving labor-management disputes, the Service may participate in FY 1980 in an innovative program for the resolution of age discrimination issues. This budget submission includes a request for staffing and funding to implement this proposed program.

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In the United States, grievance arbitration--and more recently, interest arbitration--as an alternative to strikes has been a unique achievement of our industrial relations system. The impact of arbitration on the economy of the Nation, because it does serve as an important alternative to costly and lengthy work stoppages is immeasurable. The growth in the use of arbitration has been enormous, and it will undoubtedly increase.

The Service's management and administrative programs provide support at the regional, field, and national office levels. In FY 1980 the Service will plan and evaluate programs to measure the quality of the agency's accomplishments as well as the quantity. We recently reinstituted an internal agency audit program to review workload on a station-by-station, mediator-by-mediator basis.

FMCS has initiated a significant personnel training and development program to provide employees with specialized skills training in job-related areas.

The President's goals and objectives in recruiting and training of minorities, women, and the handicapped to fill jobs at all levels in the Service is part of our personnel program and will be pursued in FY 1980.

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In terms of employment, the Service's full-time employment ceiling for FY 1980 is 515 permanent positions, a reduction of 25 positions below the initial authorization in the appropriation for FY 1979. Although I anticipate an increase in our dispute and arbitration caseload in FY 1980, I also am confident that the increased workload can be effectively handled.

The appropriation request for FY 1980 is $23,075,000, a decrease of $139,000 from FY 1979.

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Mr. Chairman, I will be happy to respond to any questions you may have.

STAFFING AND WORKLOAD

Senator BURDICK. Well, I thank you for your statement. To capsulate it, you're going to have more work and do it with less people?

Mr. MOFFETT. That's correct.

Senator BURDICK. How are you going to do it?

Mr. MOFFETT. Along with the audit program which I mentioned in our summary statement, one of the things that we have done is move a lot of our people from different field offices that had fewer cases than they had in previous years. We ran a 5-year tabulation on just what has been happening in the Service and in the last 30 to 45 days we have made about 17 or 18 transfers of mediators

from one station to another. We hope this will alleviate the problem that we are facing.

Senator BURDICK. It will be very interesting to talk to you next year and see how things have been going. You're setting a good example for other agencies, too.

Mr. MOFFETT. The audits were undertaken previously. In 1960 to 1966 we had an internal audit program similar to the one described, but from 1967 on the program was dropped. We have now reinstituted it in a special office and we are hoping that this internal scrutiny will help our situation.

Senator BURDICK. $139,000 isn't necessarily going to save the Republic, but it shows that you're trying.

Mr. MOFFETT. Yes, sir.

WAGE-PRICE GUIDELINES

Senator BURDICK. What do you anticipate will be the effects of the voluntary wage-price guideline program on collective bargaining in the coming year? Will the atmosphere of wage-price guidelines be conducive to cooperative endeavors with labor and management? Do you anticipate that the anti-inflation program will create a strong potential for strikes in the coming year?

In other words, how do you accommodate yourselves to the guideline program?

Mr. MOFFETT. Probably the same way that we have accommodated ourselves to guideline programs in the past. My experience in the early sixties and with the various incomes policies of administrations since then has been that officials of the Service always informed our people that we are neutrals. We are not inflation fighters and we are very much interested in getting settlements. The administration actually has an idea as far as what the settlements will be and we are addressing ourselves to the voluntary guidelines. We notify the parties that there are voluntary guidelines, but we are not enforcers at the bargaining table. We think that there will be difficulties.

Mr. Hobgood participated, along with Mr. Horvitz, in the oil negotiations which were recently and successfully completed. Perhaps Mr. Hobgood would like to make a comment on our experience with the first big negotiations that we were faced with under this policy.

Mr. HOBGOOD. Well, Senator, it required a great deal more coordination with the people in the inflation program. It made our job much more difficult obviously in working with the parties, but I think it was a good example of how the Service can act in a mediation capacity not only with the parties, but in working with other Government agencies.

So while wage-price guidelines make negotiations more difficult, I think we have the flexibility and capacity to deal with them effectively. We do think that from our past experience guidelines may increase the number of shorter term agreements. The oil negotiations resulted in a 2-year contract with a reopener in 1 year, so that will require us to go back into it 1 year earlier than we normally would.

AGE DISCRIMINATION

Senator BURDICK. How many age discrimination complaints do you expect will be referred to the Service for mediation and how was the estimate determined? Do you expect that age discrimination complaints will be routinely referred to your agency for mediation prior to the formal enforcement stage—or will HEW's Office of Civil Rights first try to reach informal settlements?

Are the six new positions being requested for additional mediators or for administrative support staff? Will all mediators be expected to now handle age discrimination complaints, or will you have specialists?

Mr. MOFFETT. Since Nancy Broff has been working very closely on this age discrimination project, I'll refer that question to her.

Ms. BROFF. It's very difficult for us to estimate the number of cases. It's a brandnew law. There is a very broad diversity of possible complainants. We looked at experience under our Civil Rights Acts—Age Discrimination Act, title VI, title IX. We just made an estimate in essence based on that experience.

The current plan, as proposed in the regulations which are currently under public comment, is that all cases would initially be referred to Federal mediation. We will in some areas of the country be using our own people; in other areas we will be using people drawn from the community but trained by us to mediate those complaints.

The six positions are split between mediators and administrative staff. We expect that the program will start operation in January 1980, which is 3 months into that fiscal year. We also expect a slow startup before we get a large number of complaints. Therefore we believe that the six positions will be enough to handle the caseload. We will be selecting a group of our mediators to handle age discrimination complaints. It will not be all of our mediators. It will be about 30 or 40 of them.

I believe that I have answered all of the different parts of your question.

Senator BURDICK. How much work do you expect? What's the caseload?

Ms. BROFF. We are expecting a first-year caseload of 500 cases. The estimate is based partly on averages from cases taken in under other Civil Rights Acts and partly on the fact it will be the first year of operation. It's hard to tell how many cases we're going to get because the act specifies that you can't discriminate on the basis of age. It doesn't limit the complaining groups to people, between 40 and 65 or 70 like the Age Discrimination in Employment Act, but it protects people of any age. So children would have a cause of action if, for instance, they couldn't get into an apartment building. Middle-aged people would have a complaint if they can't get into medical school. There will be a very broad range of possible complainants.

Senator BURDICK. Well, it seems to me this is going to enlarge your workload.

Ms. BROFF. Well, we expect by fiscal year 1981 it might enlarge our caseload a lot more. The program won't start up until January

1980 and it will take a while before the people out in the field realize that the program exists.

The law has been on the books since 1975 and they are just now starting to get the enforcement mechanism in place. So it will take a while before there's enough publicity about it and word of mouth before we get a lot of complaints.

In other civil rights enforcement efforts it generally has taken a year or two before a large number of complaints have been generated.

Senator BURDICK. In other words, we may lose that $139,000 next year?

Ms. BROFF. Well, we expect that, in essence, you may lose that $139,000 from us but gain it from HEW and other agencies because we expect that the mediation process will quicken the entire procedure and therefore reduce costs in the formal enforcement phase. We are expecting that we would be able to settle a large number of cases in a very short period of time instead of going through the long formal enforcement process where you bring in lawyers and get all kinds of delays and end up with large administrative cost to the Government.

Senator BURDICK. You said earlier in your statement that you were going to train some local people. Are they going to be employed people, volunteers—what are they going to be?

Ms. BROFF. They will be a variety. To some extent it's an experimental project. There are a number of community mediation groups around the country now. There are also a number of people out in the community who have the potential skills to become mediators of this kind of complaints. We will undertake a recruitment effort during fiscal 1979 through a memorandum of agreement with HEW in which we will try to locate some people throughout the country who already are trained as mediators in such areas as consumer disputes, or people who are currently unemployed and may have the potential for doing this kind of mediation. We will put them through a training program and we will also, through a monitoring process, be able to keep track of how they are doing once the program starts.

Senator BURDICK. Does this budget take care of that little operation?

Ms. BROFF. Yes, it does.

LABOR-MANAGEMENT COMMITTEES

Senator BURDICK. What steps has the Federal Mediation and Conciliation Service taken to implement the mandate from Congress to provide assistance in establishing joint labor-management committees as a separate function, apart from mediation activities?

Why is there no budget request to implement the newly authorized labor-management committees program?

In view of the joint labor-management committees now operating under the auspices of the Department of Labor, is there possible overlap of responsibilities that might interfere with carrying out the congressional mandate?

Do you think it would be useful to establish joint industrywide labor-management committees in all industries to deal with the inflation problem?

Who wants to tackle that one?

Mr. MOFFETT. We're going to split it up.

Senator BURDICK. All right.

Mr. MOFFETT. Bob Gajdys will answer the first part concerning the funds request, and then John Stepp, our National Representative for Technical Assistance, will answer the second part.

Mr. GAJDYS. Senator, when we put our budget request in for fiscal year 1980, we did so prior to this bill becoming law and it was too late in the budget cycle to include it in this budget request.

However, we are in the process now of putting together a supplemental budget request that will be sent to the Office of Management and Budget within several weeks that will indicate our request for resources to implement this program.

Mr. STEPP. Senator, I will attempt to answer a couple of those subsets of your question.

We are well underway in terms of developing internally a process for implementing that act. Our goal now is by the end of this month to have in place a full set of implementation procedures and criteria by which we will grant funds to labor-management committees as indicated in the act.

The second question you asked had to do with joint industrywide labor-management committees in all industries as a means to combat inflation and to improve labor-management relations.

I think we will probably be in far more industries than we have been in the past, but I doubt that it will be universal in scope. I think when you look at the economic structure of many of our industries, with quite a diversity of companies, many of which are nonunion in nature, it's highly unlikely that you could put together a joint labor-management committee that to some extent would be the voice for those industries. Where industries are more concentrated in terms of fewer firms, fewer unions, each having a greater say in that industry, I think there is a strong likelihood that this act could at least provide seed money for that kind of initiative.

OTHER FEDERAL INVOLVEMENT

As far as overlap with the Department of Labor and what they are doing in the way of labor-management committees, to my knowledge, their interest has been primarily in two industrial sectors. One is labor-management committees in the construction industry, and the second is in the airline industry.

We are precluded by the Railway Labor Act from involvement in the airline industry. There is a possibility, as we get further into the implementation of the new act, that we might be doing some things in the construction industry that would need to be coordinated with the Department of Labor to avoid duplication of efforts in that industry. That's the only industry that I'm aware of now in which they are involved in labor-management committees to a large degree that might be overlapping with the jurisdiction of the new Labor-Management Cooperation Act of 1978.

Senator BURDICK. It's rumored that the Labor Department will expand their activities to include more industries also.

Mr. STEPP. I am unfamiliar with those rumors and unprepared to respond to that.

Senator BURDICK. Do you each mark out your own territory and you don't duplicate?

Mr. STEPP. I think part of our overall objective as an agency is to do what is necessary to improve labor-management relationships where we detect perhaps they are deteriorating to an unacceptable level. If somebody is already doing that kind of thing, I don't think we would be anxious to rush in.

Frankly, in my estimation, there is enough work there to keep both the Department of Labor and us plenty busy in terms of those activities. I don't know what their future plans are. Perhaps there is some need for further coordination.

Mr. KRUSE. Senator, I might add that not only the Department of Labor but other agencies—Department of Commerce and other groups have been, in small ways, involved in this joint labor-management committee concept. One of the things that we see the new Labor-Management Act establishing as a function for us is some degree of coordination and clearinghouse for these activities. We don't want to duplicate.

Senator BURDICK. Neither do we.

Mr. KRUSE. And I think that's one role we see, a central point for this act of Congress perhaps becoming a clearinghouse and a coordinating point for some of that kind of activity throughout the Government.

Mr. HOBGOOD. Particularly in the construction industry we work very closely with the Department of Labor in setting up the local labor-management committees. There's already that type of cooperation in effect, Senator.

Senator BURDICK. We'll ask the Labor Department similar questions, too.

Mr. MOFFETT. You may need a mediator.

Senator BURDICK. As they say in the country, don't thrash this out two or three times. Once is enough. If we have further questions we will submit them to you.

Mr. MOFFETT. Thank you, Senator.

NATIONAL MEDIATION BOARD

STATEMENT OF DAVID H. STOWE, CHAIRMAN

ACCOMPANIED BY:

GEORGE S. IVES, MEMBER
ROBERT O. HARRIS, MEMBER
ROWLAND K. QUINN, JR., EXECUTIVE SECRETARY
ROY J. CARVATTA, STAFF DIRECTOR/GRIEVANCES
MARY C. PRICCI, ADMINISTRATIVE OFFICER

BUDGET REQUEST

Senator BURDICK. The National Mediation Board will be our next focus of attention. This Board mediates the future of wages, hours, and working conditions which arise from labor organizations in the railroad and airline industries. They are requesting $4,393,000 this year, an increase of $360,000 and they are also asking for a $64,000 pay raise supplemental.

Would you please, first of all, identify those with you?

Mr. STOWE. I'm David Stowe, Chairman this year of the National Mediation Board. On my immediate right are George Ives, Rowland Quinn, and Roy Carvatta, and on my left are Robert Harris and Mary Pricci.

Mr. Chairman, I will make a brief statement. There's a longer statement we would like to put in the record.

[The statement follows:]

STATEMENT OF DAVID STOWE, CHAIRMAN, NATIONAL MEDIATION BOARD

Mr. Chairman, members of the subcommittee, thank you for this opportunity to appear before you today. With your permission I will read a brief summary of my prepared statement and request that the latter be included in the record.

In 1926 Congress enacted the Railway Labor Act, and established the National Mediation Board to administer the act. It provides specific mechanisms for the adjustment of labor-management disputes for the railroad and airline industries. These mechanisms include:

Mediation and the investigation of questions of representation;
Emergency disputes procedures and arbitration;
Boards of adjustment; and
A National Railroad Adjustment Board to handle individual and group grievances arising under agreements.

In order to continue these activities, the National Mediation Board is requesting $4,393,000 for fiscal year 1980, this is an increase of $360,000 over the previous fiscal year. Part of the increase, $200,000, is due to mandatory items. The rest, $160,000, is requested to implement an information retrieval, for the Board feels that accurate and timely information is essential for the efficient performance of its duties. This constitutes the only new item in the budget request.$I30The National Mediation Board does not propose any changes in its programs or activities in administering the Railway Labor Act.

INFORMATION RETRIEVAL SYSTEM

Senator BURDICK. According to our information, the average number of days it takes to mediate a labor-management dispute is now 26. With the implementation of your automatic data process-

ing system, do you expect the days of mediation on an average case to decrease?

Mr. STOWE. No, sir. I think the problem with the average mediation case is that what may look simple becomes complicated; mediators' time is spent in persuading the parties to do something that they should have done but didn't, or wouldn't, do. Therefore, rather than trying to determine the average days a case will take, all we can do is tell you what it has taken to project it. Now, in the past year and a half we have developed our own internal program attempting to improve our productivity, but we have done that not in terms of the work that is done in mediation at the table but in trying to do a better job of scheduling our own mediators.

We have 20 mediators scattered throughout the United States. They are all experts in the field of railroad and/or airlines. Unlike our sister agency which comes into cases only by invitation of the parties, we are there by law. Consequently, we have felt it was very important that the mediators be not only experts in the art of mediation but have knowledge equal to those persons sitting at the table about the various problems of their respective industries. In that way we can make meaningful suggestions from knowledge of the industries.

Most of our mediators have had at least 5 years' experience at the bargaining table in one or the other of the industries. Some of our mediators have had experience at the bargaining table representing both management and labor, having gone from positions in organizations to positions in management.

So our purpose is to try to furnish our mediators with all the tools, the technical tools, the information, to assist them to carry out that function.

However, to say that information from ADP in 1 year is going to raise or lower our productivity, I wouldn't want to say. It is our hope that our mediators will be better qualified and consequently should improve their productivity, but as to a statement that, yes, we will do it; no, sir; I can't make it.

Senator BURDICK. What advantage would you get then from the automatic data processing system?

Mr. STOWE. Now as to the automatic data processing system, with your permission, I'll ask my colleague, Mr. Harris, to respond. He's made a study of the Board when he came with us and, after 50 years you develop a lot of bad habits, he has knowledge and has spent a lot of time in this area and I'd like to turn that question over to him.

Mr. HARRIS. Senator, I was appointed to the Board by President Carter about a year and a half ago. I have spent about 11 years working for the Senate. When I came to the Board, one of the things that I found was that it was impossible for the members of the staff to give me any information either in the representation area or in regard to contracts that have been entered into in either the railroad or airline industry except from their memory. There was no indexing system, no digesting system.

The problem that I had and that the public has is that there is no way of finding out at the present time what previous decisions in the representation area of the Board are except by reading the decisions.

At the present time in the mediation area, to give you an example from your previous question, under the President's voluntary program, the guidelines indicate that there are certain areas where tandem relationships will be accepted by Mr. Kahn or his staff. In order for a mediator to find out whether in fact there is a tandem contract there has to be an exact analysis of the contract that was entered into and what the previous contracts of the two companies that you're trying to compare are. Without some sort of retrieval system it's physically impossible to do it with the number of cases we have and to cover all the items that are necessary.

There's just no way to compare these things except with use of an automatic data processing system. It's the same thing as being used in the Senate in retrieving information on bills. Basically, what we are trying to do is go from no indexing system to a modern one, so we are really starting from nothing, and that's the reason for this request.

It also will be useful in the internal management of the agency in order to have better control of mediators' time and to find out quickly where they are working and what days they are not working.

For instance, when the parties say that they can't meet, we don't have a continuous record of which parties have failed to meet, who have said they can't meet on particular times; if we could put this information into a system we would be able to say that a particular union or a particular company had refused to meet for various reasons, and we would have to determine whether they were legitimate reasons or not and try to use what pressures we have to try and get them to the bargaining table. That's also one of the reasons that mediation takes a long time, because sometimes they will say, "I will meet with you but I'm not going to do anything; I'll just sit there."

Senator BURDICK. Well, I suppose this will speed things up a bit. I can see what you're talking about. Suppose company X has a contract in 1950, has a different one in 1960 and 1970. You would be able to get the information and comparison faster.

Mr. HARRIS. Yes, sir; and in regard to each specific item. One of the problems we're having right now is in keeping Mr. Kahn's staff informed of when a new contract is being bargained. They want to know what's happening and we're not able to give them the kind of information that they want because they have the computer capability that we don't.

INTEREST ARBITRATION

Senator BURDICK. I see. Last year the Appropriations Subcommittee suggested the National Mediation Board utilize its voluntary arbitration boards to do more to decrease the number of contract disputes it has to settle.

How successful have you been and what effect have such voluntary settlements had on your budget?

Mr. STOWE. We have in our budget each year a section for arbitration. We have built into our law interest arbitration; FMCS mentioned it as something that is coming to the forefront. It has been in our law from the very beginning.

However, up until 2 or 3 years ago it has not been a very popular sport. One side or the other takes a pale view of having an outsider come in and adjudicate what should be put in the agreement.

However, about 7 or 8 years ago, we began pushing interest arbitration. In addition to segregating every now and then a very difficult item from the many and asking the parties to arbitrate that one item so we can get on to the dispute, we have now in position some 10 recurring interest arbitrations in the airline industry where there is no chance of a dispute going to a strike because they have jointly agreed to arbitrate unresolved issues.

We would like to see more such agreements. We are going to continue to push it. The number is still small, but the idea is growing, particularly in the airline industry.

In the railroad industry, since 1970–71, there have been two issues—interdivisional runs and switching limits—that for 20 years plagued the railroad organizations and the carriers. In 1970–71—I have to use the two dates because the engineers did it one year and the UTU did it another year—they entered into a contract with each other to arbitrate these issues rather than to leave them in every round which had a cocklebur effect. That has been going on continually and we have handled more than 40 cases.

So while the numbers are not large in the two industries, progress is being made, Senator.

MEDIATION CASELOAD

Senator BURDICK. According to your mediation case projection tables listed on page 13 of the justification for 1980, your 1979 and 1980 starting and ending projections are exactly the same.

Just how sophisticated is your technique for projecting your annual caseload?

Mr. STOWE. Mr. Chairman, I would not say we are sophisticated at all. I think the honest fact is that with two industries and variables that affect how many cases we are going to get year after year, we have had to depend on, first of all, what our history has been, and then to project into that subjective judgment which would indicate either longer periods of time in handling cases or it's going to be something like a national round of railroad bargaining which will slow down local cases.

So that in terms of any projection of how many times my neighbor is going to fight with his wife or how many times we are going to be called upon under the law to mediate cases, I think it's like the dodo bird—we see where we have been and then try to adjust it for those things we can anticipate.

For example, in previous testimony we mentioned the fact that there were a number of local disputes not being handled because of a pending round of national negotiations. Now the national dispute is out of the way and, incidentally, we are pleased with the fact that there were 13 unions in national bargaining and 12 of them have signed contracts leaving only 1. We did not think this was going to be the most happy year. We were concerned we would have to come up and face the Congress again with a national railroad strike, and even though we did have one for a brief period, the Emergency Board coupled with the efforts of Mr. James Reyn-

olds as a special mediator got us through the troubles and so we feel that now some of these cases waiting for the national bargaining to be completed will now come forward.

Senator BURDICK. For a number of years you've produced 40 bushels an acre and so you project another 40 bushels an acre this year; is that about it?

Mr. STOWE. That's just about it. We have another complex problem coming up and that is the wage-price guidelines. It's important, and while we are not there to police or interpret; when we feel the parties have reached or are about to reach the limit under the guidelines, we have urged our parties that they make their appointments with Mr. Kahn and his people and find out precisely where they are vis-a-vis the guidelines. It's better to have them know what limitations, if any, he may have about their bargaining before they settle a case and then find it's turned down.

Senator BURDICK. Well, you have a biblical role, "Blessed are the peacemakers." We may have some further questions.

RAILROAD INDUSTRY CONFERENCE

Mr. STOWE. There are two comments I would like to make growing out of the preceding hearing. With respect to labor-management committees, 2 years ago we had airline and railroad managements, the airline and the railroad unions in for a 5-day seminar in Florida. It was eminently successful. The conference paid great dividends and it ties in to the question you asked concerning the labor-management cooperation field.

This year we are planning at their request on April 29, 30, May 1 and 2, meetings at St. Simons Island with the railroads and the railroad unions. They intend to, since they are now through with their national bargaining except for one organization, and have a 3-year period before they go back into another national round, to use this program which we will handle for them to consider future problems and hope to springboard some things they want to work out in the field of labor-management relations to joint committees to work on during the coming 2 years.

Second, reference was made that the Department of Labor was involved in the airline industry in some labor-management field. This is correct. Mr. Chairman, the DOL activities were done with our full cooperation and encouragement. The airline industry found itself with substantial problems that impacted on their industry, such as the effect of deregulation, fuel shortages, and so forth.

The Secretary's meetings, with which we have cooperated because the problems were of the nature that we could not be the catalytic agent—we just didn't have any status with people in the energy field or anywhere else, but the Secretary of Labor does—and those meetings consisted of chairmen of the boards or chief executive officers of all the trunk airlines and they selected regional carriers and all the presidents of recognized major airline unions. There have been two such meetings.

The reports we get from the chief executive officers of the airlines and organizations are that they think they are fine. It is time that they have found someone at the Cabinet level who is interest-

ed in some of the problems. The DOL has stayed out of any field of labor relations. It has not attempted to get into collective bargaining or related issues, yet, these have been problems of the industry which have a major impact on bargaining, but which do not grow out of the bargaining process per se.

I would like to make that statement because the cooperation we have had with the Department of Labor has been excellent.

Senator BURDICK. Thank you very much.

[The statement follows:]

STATEMENT OF DAVID STOWE

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE. I appreciate this opportunity to appear before your Subcommittee today concerning the National Mediation Board's budget request for fiscal year 1980.

The Railway Labor Act, first established by Congress in 1926, and composed in its present form in 1934, is administered by the National Mediation Board. This statute is designed to provide orderly procedures for the settlement of labor disputes in the railroad and airline industries. Additionally, the National Mediation Board handles questions of representation as they arise in these industries and interprets agreements made in mediation.

The National Railroad Adjustment Board was also established in 1934 under the Act for the purpose of disposing of grievances arising under the terms of collective bargaining agreements in the railroad industry.

Public Law 89-456, approved June 20, 1966, amended the Act's procedures for the disposition of what are termed "minor disputes". Under this public law, new grievances and those which have been on docket before the National Railroad Adjustment Board for a period of at least twelve months may be referred to a local board of adjustment on each individual railroad for expeditious disposition.

Therefore, under the Railway Labor Act, Congress has provided for the railroad and airline industries specific machinery and procedures for the adjustment of labor-management disputes, i.e., for mediation and the investigation of questions of representation; for emergency disputes procedures and arbitration; as well as for boards of adjustment and a National Railroad Adjustment Board to handle individual and group grievances arising under agreements between management and the labor organizations concerned.

The total amount requested to administer the Railway Labor Act is $4,393,000, an increase of $360,000 over the amount available for fiscal year 1979.

The budget justification, as submitted, identifies the functions just discussed and the amounts requested for each.

First, mediatory services, which involve the making and amending of agreements, and the representation function. These activities are the responsibilities of the National Mediation Board. For fiscal year 1980, a total of $2,349,000, an increase of $307,000 over the amount available for 1979, is requested to finance these activities along with a number of administrative duties consistent with statutory authority under the Railway Labor Act and related statutes governing railroad and airline labor disputes procedures.

Part of the increase, $147,000, is due to mandatory items. The rest, $160,000, is requested to implement an information retrieval, for the Board feels that accurate and timely information is essential for the efficient performance of its duties. This constitutes the only new item in the budget request.

The second activity of the Board relates to voluntary arbitration

and the investigation of critical disputes through the emergency board procedure. In arbitration proceedings, disputes are voluntarily submitted by labor and management to a neutral party for final and binding decision. The Board aspires to persuade management and labor to more frequently utilize the arbitration provision of the Act to dispose of contract disputes.

Emergency boards are created pursuant to section 10 of the Act when the Board notifies the President that a dispute threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation. The President may create an emergency board to investigate and make recommendations as to the settlement of the dispute involved. The Board is not able to anticipate precisely the total expenditures for these arbitration and emergency board activities, and it is therefore advisable to have a reserve available for emergency situations.

For fiscal year 1980, the Board is requesting a total of $144,000, the same amount as is available in 1979.

The third activity carried under this appropriation is the adjustment of railroad grievances. This activity pertains to the operations of the National Railroad Adjustment Board mentioned earlier, which is concerned with the interpretation and application of wage and rule agreements in the railroad industry as well as boards of adjustment established by individual carriers and organizations for the same purpose. In this submission all expenditures relating to the settlement of grievance disputes, that is special boards of adjustment and public law boards expenses, have been included in this activity.

For the adjustment of railroad grievances, the amount of $1,900,000 is requested for fiscal year 1980, an increase of $53,000 over the amount available in 1979.

In summary, the National Mediation Board is requesting a total of $4,393,000 to finance activities under the Railway Labor Act for fiscal year 1980. This is an increase of $360,000 over the amount available for fiscal year 1979.

This completes my statement. We are here to answer any questions you may have.

BIOGRAPHICAL SKETCH of DAVID H. STOWE

Born in New Canaan, Connecticut, September 10, 1910. Married Mildred Walker, Chapel Hill, North Carolina. Children: David H., Jr., and Richard W. Educated at Washington and Lee University, Duke University. A. B. Duke University, 1931; M. Ed. Duke University, 1934.

Professional experience includes: Member, National Mediation Board, confirmed December 2, 1970; full-time labor arbitrator (1953-1970); public member of the President's Missile Sites Labor Commission (1961-1967); member of Atomic Energy Labor-Management Relations Panel (1962-1973); Director, Manpower Utilization-Job Security Study of the Atlantic and Gulf Coast Longshore Industry, U. S. Department of Labor (1963-1964); organizational Disputes Arbitrator Industrial Union D epartment, AFL-CIO (1955-1970); member of four Presidential Emergency Boards (various dates).

Prior government experience: Administrative assistant to the President of the United States (1949-1953); deputy to The Assistant to the President of the United States (1947-1949); U. S. Bureau of the Budget (1941-1947); Chief Examiner, U. S. Bureau of the Budget (1943-1947); Assistant State Director, North Carolina State Employment Service (1937-1941). Other experience: Teacher - history and economics in junior colleges in North Carolina (1931-1937).

Member of National Academy of Arbitrators and American Arbitration Association.

Democrat.

Residence: 7402 Glenbrook Road, Bethesda, Maryland 20014.

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RAILROAD RETIREMENT BOARD

STATEMENT OF WILLIAM P. ADAMS, CHAIRMAN, RAILROAD RETIREMENT BOARD;

ACCOMPANIED BY:

CHARLES J. CHAMBERLAIN, LABOR MEMBER
JOHN SUKER, DIRECTOR OF BUDGET AND FISCAL OPERATIONS
EUGENE KOCH, CHIEF EXECUTIVE OFFICER
ABRAHAM BENJAMIN, DIRECTOR OF RESEARCH
DALE ZIMMERMAN, GENERAL COUNSEL

BUDGET REQUEST

Senator BURDICK. We will now hear from the Railroad Retirement Board. The Railroad Retirement Board administers railroad pensions and social security benefits to eligible retired railroad employees and their families. The major issue we need to discuss is the $56 million supplemental being requested for fiscal year 1979. Most of this request is to reappropriate $37,646,000 which was appropriated in fiscal year 1976 but unused. We also want to discuss the validity of your actuarial assumptions and how much Federal money is going to be needed for social security windfall benefits. We are anxious to hear your justification for this request as well as for the $3 million increase you're asking for in 1980.

INTRODUCTION OF ASSOCIATES

Mr. ADAMS. Thank you, Senator.

My name is William Adams and accompanying me on my left is Mr. Chamberlain, the labor member of the Board. Mr. Earl Oliver, the management member of the Board, unfortunately couldn't join us today. He's home ill with a cold and fever. On Mr. Chamberlain's left is Mr. John Suker, Director of our Budget and Fiscal Operations, and on the other side of Mr. Suker is Mr. Eugene Koch, our Chief Executive Officer. On my right is Mr. Abraham Benjamin, the Director of Research, and Dale Zimmerman, our general counsel.

OPENING STATEMENT

We have submitted a written statement. I would like to just highlight it briefly and then try to answer your questions.

You have already described the programs we administer. As you know, they are administered by a three-member board, one of whom is designated by the President as a representative of labor, Mr. Chamberlain; and one of whom is designated by the President from among candidates recommended by the carriers, Mr. Oliver; and the public member, myself, serving as Chairman of the Board.

Prior to the 1974 act, our entire railroad retirement program was financed by money in the trust fund which consisted primarily of taxes on railroad payrolls paid by the employers and the employees and the financial interchange reimbursement.

The 1974 legislation introduced for the first time an amount that comes from the general funds of the Treasury and that's the so-called windfall appropriation that you referred to. In the estimates made on that windfall in 1974 when the legislation was enacted, both committee reports included the statement that it would cost approximately $285 million a year on a level cost basis for the succeeding 25 years to pay off the so-called dual benefits. Perhaps I should briefly describe what the dual benefits were.

FINANCIAL INTERCHANGE

Prior to the 1974 act, people could be covered under both the Railroad Retirement Act and the Social Security Act and draw benefits under both. The railroad retirement fund has been reinsured by the social security fund since the early 1950's—I believe 1951. Under financial interchange arrangement between the railroad retirement fund and the social security fund, the railroad retirement fund pays the social security fund the amount of social security taxes payable on railroad salaries just as if those people were covered under social security. In turn, the social security fund pays back to the railroad retirement fund the amount of social security benefits those taxes would have earned.

From the early 1950's on into the 1960's, more and more people began to be qualified for both social security and railroad retirement. At the time the interchange was begun there was not much dual coverage. We had a declining employment problem in railroads. People left the railroad industry and became covered under social security. This created the problem because the Social Security Act said, in effect that, "In any case in which one of your railroad retirement beneficiaries is actually eligible for a social security benefit which is being paid by the Board we deduct that amount from the amount we otherwise would pay back to the Board under the financial interchange."

By the time the 1974 act was enacted, I believe the estimate of what you might call this lost reimbursement from social security was amounting to something like $415 million a year and if it continued at that rate, by 1981 there wouldn't be any money left in the railroad retirement fund to pay benefits.

This resulted in the 1974 legislation which in effect said, prospectively, from 1974—January 1, 1975 on, you can no longer draw both benefits. The Railroad Retirement Act of 1974 created a two-tier system—in tier 1 of the railroad retirement system, and this is an oversimplification, we basically use all of an individual's railroad service, all of his social security covered employment, total the two together, and compute his benefits under the Social Security Act. That comprises tier 1 of the railroad retirement benefit, minus, however, any benefit the individual is drawing directly from social security.

DUAL BENEFIT WINDFALL

The tier 2 benefit is a benefit computed solely on railroad service and is based solely on railroad earnings and is the smaller benefit.

Now the so-called windfall is the difference between what an individual would draw under the 1974 act and what he had an

expectation to draw or was vested with as of the time the 1974 act took effect. In other words, when the legislation was enacted, the Congress said, "Well, if you're already vested under both social security—that is, you have your 40 quarters or whatever is necessary for social security—and your 10 years under railroad retirement, you're vested under both systems. What you have earned up to this point you can draw as dual benefits. From now on, you accrue no additional dual benefits."

Well, the estimate, as I said, on paying off the cost of phasing out those dual benefits amounted to $7 billion total, which on a level payment basis would have been $285 million a year for 25 years.

The legislation authorized such amounts that were necessary from 1976 through the year 2000 to pay those costs. That cost was reduced by an amount equal to increased interest that the Board was expected to earn from liberalizations on investment policy, and the congressional policy in the legislation was—if you make any increased interest, you subtract that from the cost of the windfall. That left us with an original estimate of $250 million a year because we expected to earn an additional $35 million a year in interest.

Well, in 1976, the actuarial valuation came out and, lo and behold, the estimate became $350 million a year instead of $250 million, and this is level cost over the remaining 24-year period.

For the next 2 years there had been $250 million appropriated, so there was a shortfall right there, and with the loss of interest on that shortfall our actuaries said the request should from then on be $363 million.

Last year there was $313 million appropriated. The $50 million reduction was based on a bill proposed by the administration to no longer allow the cost-of-living increases that the windfall beneficiaries received up until the time of their retirement. Once they retire they receive no cost-of-living increases in their windfall benefits, but up to the time they retire they are indexed to allow for increases in the cost of living.

WINDFALL APPROPRIATION SHORTFALL

That legislation was not enacted, so there's a $50 million shortfall in the request in the appropriations for last year. The same legislation is being proposed by the administration this year and that results in our $313 million request again.

I just saw a copy yesterday of the General Accounting Office report to Chairman Magnuson on the windfall estimates. The GAO has estimated that it would require, beginning in 1980, $415 million a year on a level cost basis through the year 2000 to pay off these benefits. The primary difference, as I understand it, between the two figures—our actuaries and the General Accounting Office actuary—is that our actuary said that beyond 1980 he did not include in his estimates cost-of-living increases or the inflation factor. The General Accounting Office did. Basically, that's the real difference.

As I understand it, our actuary did not object to the computation methods used by the General Accounting Office or the assumptions used. I think what he's saying is that given these assumptions, if

you assumed this rate of inflation and you assumed this level of employment and beneficiaries, I have no objection to the results you came to. It would be $415 million on those assumptions.

REGIONAL RAIL PROTECTIVE ACCOUNT

Perhaps I should stop there and let you go into that in more detail. I don't know if you want me to make any comment on our regional rail protective account in addition to the windfall. That's a supplemental of $56 million.

Just briefly on that, the entire $56 million supplemental for the regional rail protective account is made up of $37,646,000 previously appropriated and lapsed in 1976, plus $18,870,000 remaining from the original $250 million authorization. In addition we have a $25 million appropriation for this year and roughly an $18 million carryover from 1978.

What the supplemental request includes is a reappropriation of that lapsed $36 million and an acceleration of the $18,870,000 remaining in the original authorization. When we bring our total appropriation request up to the $56 million, the Board is anticipating that the money will run out by the middle of this year.

Senator BURDICK. At that point, is there an alternate way that you could make these funds available, short of reappropriation?

Mr. ADAMS. On the $36 million, there isn't. Section 509 of the Regional Railroad Reorganization Act of 1973 put the $250 million aggregate limitation on the total amount that could be spent under title 5 for protective payments. Once that $250 million figure is reached, there's no more money available for those payments. I invite our chief executive officer, Mr. Koch, to correct me if I make a mistake on this—but as of January of this year, we have spent roughly $169 million of that $250 million. As I understand it, ConRail anticipated under the new crew consist agreement they will be spending roughly $56 million in separation allowances between now and March of this year. That brings us up to roughly $225 million.

Based on past experience of expending roughly $5.9 million a month in ConRail protective payments, the extra $25 million that's left would last us roughly 4 months, maybe into June. We would then run out of money.

That includes the $36 million reappropriation and, as I understand it, the money has lapsed and it would require reappropriation. We do have $18 million in carryover from 1978 and $25 million in appropriation already approved for 1979. That would put us at the $250 million ceiling.

Senator BURDICK. Well, there are other obligations from the ConRail legislation, in addition to the windfall situation; is that right?

Mr. ADAMS. Yes. The ConRail situation is the labor protective payments, displacement allowances, separation allowances, and the fringe benefits they're entitled to.

Senator BURDICK. It's a different situation than the actuarial problem we have in the retirement program?

BOARDS ROLE IN REGIONAL RAIL

Mr. ADAMS. Yes; entirely different legislation. The Board, as a matter of fact, is involved in this, of course, by law under the 1973 act. It's almost a ministerial function we are performing because we are obligated to reimburse ConRail and other acquiring railroads or USRA for amounts actually paid to employees who have been displaced by the Northeast railroad reorganization. They operate their own programs and make the payments and all we can ask of ConRail is to certify to us that they have paid John Doe *x* amount for a separation allowance, and when we have that we authorize payment to ConRail. They make the payment to the individual. We reimburse ConRail and the acquiring railroads for those payments.

Senator BURDICK. How long have we got an obligation to ConRail?

Mr. ADAMS. The way the law reads as of today, the obligation runs out when the $250 million runs out. At that point the Board will not be able to reimburse the railroads. If it goes beyond the $250 million, it will require more authorizing legislation by the legislative committees under title 5 of the 1973 Regional Rail Reorganization Act.

Senator BURDICK. Why do you feel we should provide you with the additional $18 million above the 1978 surplus other than the fact that it would put you up to your authorization ceiling?

Mr. ADAMS. This is the carryover, the $18 million from last year?

Senator BURDICK. Yes.

Mr. ADAMS. The money will be needed to pay what we anticipate will be applications for the protective payments and even with the carryover, as I said, plus the $25 million appropriation and the reappropriation of the $36 million that had lapsed, our anticipation is it will not carry the program beyond June of this year.

1974 ESTIMATES

Senator BURDICK. You may have answered this, if not totally, in part. Why did the cost estimates rise over 40 percent in the 2 years between when the legislation passed in 1974 and when the Board completed its valuation in 1976? You touched on that. Do you care to amplify it?

Mr. ADAMS. I might ask Mr. Benjamin if he has any comment. I'm sure he worked closely with our actuary on it. As I recall—and I was not on the Board then—but as I recall discussions of this, these were fairly quick off-the-cuff guesses that our actuary made at the time the 1974 legislation was considered and between the enactment of the 1974 legislation and the time the actuarial valuation came out it was recognized that they were guesses. The legislation did provide that the Board would revise that estimate every 3 years at the actuarial valuation. It would be the revised estimate that would be authorized appropriation on the level basis until the year 2000. So the initial one was $250 million. You might say, then, 2 years later, we said, "Oops, that should have been $350 million, a $100 million mistake."

Senator BURDICK. That's a 40-percent mistake.

GAO ESTIMATE ON WINDFALL

Mr. BENJAMIN. I would like to add that there were other differences. At the time we estimated there would be something like a $35 million savings because of interest change through the liberalization of our investment policy. It turned out that that figure was closer to $10 million. I think the General Accounting Office indicates the savings in that range. So you've got an originally estimated $35 million versus a currently estimated $10 million.

The other point comes into the GAO's approach and our actuary's approach, and we have operated on what we call a static assumption. It's very difficult to anticipate inflation indefinitely, so that it was felt it would be better to just estimate for 3 years basically and at the end of 3 years take another look at it. We recognized and knew and expected it would be higher, but we just didn't know how much higher. So when you start projecting inflation all the way to 2000, whatever assumptions you use—6 percent a year or any other figure—it's subject to considerable error and our actuaries felt it would be safer to not allow for inflation and every 3 years reappraise the situation. And, as Mr. Adams said, clearly the nature of that original estimate was rather hurried. We were asked for figures on very short notice. The details of the legislation had to be finalized so we're kind of apologizing for it but it was an honest mistake and there are some basic differences between the way our actuary estimates the windfall and the way GAO did it.

Senator BURDICK. Just a mistake, that 40-percent gap?

Mr. BENJAMIN. You know, when you try to project inflation for the next 20 years and try to guess what that may be, that's very difficult.

Senator BURDICK. But this was between 1974 and 1976.

Mr. BENJAMIN. That's a figure that's based on a level basis through the year 2000.

Senator BURDICK. I see. How much would your obligations be reduced by if there were no further cost-of-living increases for nonretired individuals?

Mr. ADAMS. If I'm reading that question as being——

Senator BURDICK. There are no cost-of-living increases after retirement, but suppose there was none from this point on?

Mr. ADAMS. This relates to the administration proposal of no longer indexing?

Senator BURDICK. I don't know whose proposal it is.

Mr. ADAMS. The administration estimated it would save the fund $50 million a year. Mr. Benjamin points out it's not only the indexing that would result in that $50 million saving. That legislation would also remove the use of the minimum social security benefit in computing the windfall.

Senator BURDICK. I see. In other words, that would be no cost-of-living increase and no minimum?

Mr. ADAMS. Right.

HEADQUARTERS PHYSICAL SECURITY

Senator BURDICK. Last year the General Accounting Office reported that the Board had failed to correct deficiencies in physical security safeguards at the Chicago headquarters.

Have you corrected these deficiencies to the satisfaction of GAO, and if so, what specific changes have you made in your security plan?

Mr. ADAMS. We have made changes in the security plan. They are not complete yet. One of the deficiencies was that when the General Accounting auditors first came to the Board they were able to walk in and out of our computer rooms and pick up tapes and take them back to their office if they wanted to. It happened to be their own tapes, but it wouldn't have made any difference.

We have since put card key locks on our computer room doors, locked the room, and placed our computer tapes into a locked library.

The other aspect of it was locking the front door, so to speak. When I first came to the Board you could walk into the Board with or without a suitcase and leave the same way and the guard didn't challenge you. We then issued identification cards with pictures to every employee and we have asked the GSA guards to require people to show identification when they enter the building. If they have none, they must call the office they are visiting and have a pass, a visitor's badge, to wear while they are in the building.

We have a 12-story building and there's nobody in there except the Railroad Retirement Board, so there's no real reason for anybody to be in there unless they are an employee of the Board or have legitimate business with the Board.

We have also installed the card key operations on the front door for after hours. We do have computer operations and weekend operations going on after our normal hours and individuals have to have the card key to get in. That is installed but not operating yet. We do have our computers locked.

Senator BURDICK. Is this something major? We have that in the Federal Building in Fargo and it isn't that big, is it? You just put an identification tag on the employees and have a card to get in the door.

Mr. ADAMS. No, and it didn't exist. I could walk in with my overnight bag and out the same way.

Senator BURDICK. So this is no major outlay, is it?

Mr. ADAMS. No.

Senator BURDICK. For goodness sakes, do it.

Mr. ADAMS. We have done it.

TRUST FUND INVESTMENT

Senator BURDICK. The 1974 Railroad Retirement Act gave your Board the authority to buy and sell securities at the most advantageous terms. The Board's internal auditors found that maximum interest income was not being realized on the Board's investments.

For the months January through June of 1975, $3.8 million in interest income was lost because the Board failed to reinvest in higher yielding securities that were available to it. In a followup review in 1977 and 1978, internal auditors again found the same

situation. This interest income would have been applied against the cost of windfall benefits.

Is it possible that this conservative investment policy is due to the fact that the Congress will appropriate whatever is needed anyway, thereby taking away the incentive for achieving maximum interest income?

Mr. ADAMS. No, sir; it is not due to the fact that Congress will appropriate funds to pay for the windfall. I will ask Mr. John Suker, our Director of Budget and Fiscal Operations, to add to this if he can, but originally the Treasury made the decision on redeeming our obligations in order to pay benefits, and it's my understanding they redeemed them on a policy of dates of maturity. They would redeem the oldest ones first, regardless of what the interest rate was. Under our new policy we have asked them to redeem obligations as we need them to pay the benefits on the basis of redeeming those with the lowest interest rate first, regardless of maturity.

Here's where I think I would ask John to add to this. We do have legal authority to demand, in effect, that Treasury invest our money in certain specified special obligations of the United States. Month by month we could demand that they turn this over and get us another one-quarter of 1 percent interest.

It's my understanding that Treasury opposes this on the grounds of the administrative problems it would create for them, and if we in effect persisted they might seek legislation to stop it. John, can you elaborate on that?

Senator BURDICK. You mean to say they would ask us to pass some law that would reduce the amount of money we get on our investments?

Mr. ADAMS. That the railroad retirement fund would earn on Treasury investments.

Senator BURDICK. That's hard to imagine.

Mr. SUKER. Senator, maybe I can elaborate a little bit on that. We have met with the Treasury Department on several occasions to discuss the financial arrangement you described. Our railroad retirement fund is a decreasing fund. It is one that is decreasing at the rate of approximately $200 to $250 million annually with all of our annual income plus some of our reserves being used for current benefit payments. Even though this income is in and out in the same year, our investments are treated as though they are medium- to long-term investments by the Treasury Department. Our interest rates are determined on that basis.

The proposal that was made by our internal auditors would place our investments on a very short-term basis in terms of interest rates and the Treasury Department objected to that particular method. They were giving us higher interest rates, in essence, for a fund that is decreasing. They were giving us long-term interest rates at the time which were greater than the short-term interest rates.

Senator BURDICK. I don't understand this. Don't you have complete freedom to invest where you wish within certain limits?

Mr. SUKER. Within certain limits, that's correct, Senator.

Senator BURDICK. What limits does the Treasury put on you?

Mr. SUKER. The limitation would be that had we insisted on these maximum interest rates Treasury would have asked for legislation to place our fund in a less advantageous position in terms of interest rates.

Senator BURDICK. Why?

Mr. SUKER. Because under the proposal our special securities would be reinvested on a month-to-month basis rather than an annual basis. Treasury maintains that since our trust fund is decreasing on an annual basis it should be treated as a short-term investment.

Senator BURDICK. That's where you lost all this money?

Mr. SUKER. That's correct.

Senator BURDICK. Maybe we ought to ask these Treasury people some things.

Mr. ADAMS. We are limited, of course, to Government guaranteed securities, either long-term public or special obligations. I gather—John, you can correct me if I'm wrong—there was also a problem administratively for the Treasury in that we could have demanded a monthly turnover from one obligation to another to get a slightly better interest rate which would have been quite a bookkeeping problem for them.

Senator BURDICK. I know that the Congress would look favorably upon your getting as much money as you can for your surplus money at the moment.

Mr. ADAMS. We did explore this with Treasury and the reaction we got was we'd better not.

LOSS IN TRUST FUND INVESTMENT INCOME

Senator BURDICK. In other words, we lost $3.8 million because of the bookkeeping problem, and you say that was requested or more or less ordered by Treasury?

Mr. ADAMS. Yes, sir.

Mr. SUKER. We have made some changes in our investment portfolio over the last 2 or 3 years and what we have done is taken some of our long-term investments that were originally purchased at 3.5 or 4 percent and reinvested them in higher interest bearing obligations of the United States, in some cases as high as 8.5 percent. The net increase to the fund over the course of those securities was in the area of $5 to $10 million. We did do that and we do examine our portfolio virtually on a monthly basis to determine what the current interest rates are. Approximately $2.5 billion of our investments are held in special issues of the United States. The other $0.5 billion is in long-term securities of the United States. It is the $2.5 billion that is continuously rolled over almost on a—well, on an annual basis. On those special securities we maximized the interest based on the fact that they are not redeemed unless they are the lowest yielding special securities we have in our portfolio.

Senator BURDICK. That was just done recently, wasn't it?

Mr. SUKER. That's with the 1974 act. That was provided in the 1974 act. We now direct the Treasury as to what securities to redeem for the payment of our benefits.

Senator BURDICK. Well, this audit says in the followup review in 1978 and 1979 they found the same situation that they found back in 1975 after the 1974 act.

Mr. SUKER. Yes. What they were pointing at was the fact that if we went on a month-to-month basis on our special securities and asked the Treasury Department to reinvest only if there was a higher rate available additional interest revenue would be realized. However, what we would be doing would be loan money to the U.S. Government one month at 8 percent and turn around and take it back the following month and say now we are going to loan that same money to you but at 8½ percent. The question comes down to whether or not our trust fund is a long-term instrument or a short-term instrument.

Senator BURDICK. It looks like you've got long-term obligations. Well, we're going to ask the Treasury about this point. We may have some more questions we will submit to you. Thank you very much.

[The statement and questions and answers follows:]

Railroad Retirement Board
Statement on Appropriation Estimates
Request for Fiscal Year 1980

Mr. Chairman and Members of the Committee, before discussing the specifics of our 1980 budget request, I would like to furnish some general information regarding the Railroad Retirement Board.

Programs Administered by the Railroad Retirement Board

The Railroad Retirement Board administers a regular retirement system for the payment of retirement and disability annuities to railroad employees, annuities to their spouses, benefits to their survivors, and payment under certain conditions of supplemental annuities, in addition to regular annuities. The Board also administers a separately financed system for the payment of unemployment and sickness benefits to qualified railroad workers, and participates in the administration of the medicare program for persons covered by the Railroad Retirement Act.

Structure of the Board

The Railroad Retirement Board is administered by a three-member Board appointed by the President, by and with the advice and consent of the Senate -- one member upon the recommendation of representatives of employees, one upon recommendation of representatives of employers, and one, the Chairman, without designated recommendation. The terms of office are five years and are arranged so as to expire in different calendar years. The present management member was first appointed August 5, 1977, to complete the unexpired term of the former management member and was reappointed on October 20, 1978, for a term beginning August 29, 1978. The present labor member was appointed on October 10, 1977, to complete the unexpired term of the former labor member, which began on August 29, 1974, and the present Chairman was appointed on February 15, 1978, for a term beginning August 29, 1977.

Financing the Railroad Retirement Program

The railroad retirement system is financed by taxes paid by railroad employees and employers into trust funds. The amounts needed for benefit payments and administrative expenses are derived from these trust funds. Congress must authorize the amounts to be spent for administrative expenses.

Payments for Dual Benefits

Under the Railroad Retirement Act of 1937, an individual engaging in covered employment under both the Railroad Retirement Act and Social Security Act could, under certain conditions, receive benefits under both Acts. The weighting factors inherent in the social security benefit formula produce a proportionately higher benefit for employees with low earnings and short service. Therefore, dual beneficiaries receive a higher return for the taxes contributed since in most instances the social security coverage is only

supplementary to their regular railroad employment. Even though there is a financial interchange arrangement between the Railroad Retirement Board and the Social Security Administration whereby the latter reinsures benefits paid by the Board, the cost of this higher return was borne by the Railroad Retirement Account.

The Railroad Retirement Act of 1974, P.L. 93-445, phases out dual benefits and authorizes annual general fund appropriations on a level cost basis from 1976 through year 2000 to phase out the cost of this higher return. P.L. 93-445 also provides that the Board shall, at the time of each actuarial valuation prior to the fiscal year 2000, determine whether an adjustment should be made in the authorized level of this appropriation. The thirteenth actuarial valuation indicated that the level appropriation starting with fiscal 1977 should have been $350 million. Since only $250 million had been appropriated for fiscal 1977 and 1978, the $350 million would have to be increased to $363 million starting with fiscal 1979 to make up for the $200 million shortage in fiscal 1977 and 1978 and the loss of interest on that $200 million. The amount appropriated for fiscal 1979 was $313 million which was based on proposed legislation to discontinue indexing the initial windfall benefit for workers who retired after December 31, 1978, and also to eliminate the use of a minimum benefit computation in calculating the windfall amount. The amount requested for fiscal 1980, $313 million, also is based on the same proposed legislation but only to the extent that it will be effective after June 30, 1979.

Payments for Regional Rail Reorganization Protective Benefits

The Regional Rail Reorganization Act of 1973 provides for payment of money allowances to protected employees who were adversely affected by the reorganization of railroad companies in the Midwest and Northeast.

Conrail and other railroads that acquired rail properties from railroads involved in the reorganization are responsible for paying the money allowances to protected employees. The Railroad Retirement Board then reimburses Conrail and the acquiring railroads for the allowances paid and for certain other expenses. Reimbursement is made from the Regional Rail Transportation Protective Account. The Act authorizes appropriations to this Account in the aggregate sum of $250 million.

No general fund appropriation request is being made for fiscal 1980. Rather, the remainder of the authorization, $18,870,000, plus the lapsed funds appropriated by Congress at the beginning of the program, $37,646,000, are being requested as a 1979 supplemental of $56,516,000. The additional funding in fiscal 1979 is needed to cover anticipated increased protective payments resulting from a crew consist agreement between Conrail and the United Transportation Union intended to reduce railroad operating costs. It is expected the protective payments will completely exhaust the authorization in fiscal 1979.

Limitation on Salaries and Expenses - 1980

The amounts requested under this appropriation account title represent a limitation on the use of trust fund monies for the administrative expenses of the railroad retirement system. Repeated amendments to the basic Act present a continuing problem in attempting to keep abreast of workloads. These amendments culminated in the passage of P.L. 93-445, the Railroad Retirement Act of 1974, effective January 1, 1975, which completely restructured the railroad retirement system.

For fiscal year 1979, the regular limitation on salaries and expenses is $34,317,000, which is the amount appropriated by the House and Senate. There is now pending a Pay Act supplemental of $1,386,000 for fiscal 1979. In addition, the fiscal 1979 limitation includes a program supplemental of $1,000,000 to make funds available to initiate a quality control project to determine the accuracy and timeliness of the $4.5 billion benefit payments administered by the Board. The Pay Act supplemental and the program supplemental would increase the 1979 regular limitation for salaries and expenses to $36,703,000.

For fiscal year 1980, the budget request contains $39,730,000 as the Limitation on Salaries and Expenses. In fiscal year 1980, our objective is to improve the timeliness and accuracy in the payment of benefits; reduce special backlogs; expand our EDP operations to introduce new programs; develop instructions and procedures to comply with "due process" when establishing and recovering benefit overpayments and to expand the 1979 quality control project on an ongoing basis for benefit payments. During fiscal 1980, we expect to process 100,000 employee age and disability, spouse and survivor applications, plus 25,000 supplemental annuity and medicare applications and 43,000 social security certifications. In addition, we expect to service 1,010,000 beneficiaries and pay benefits amount to $4.5 billion.

Finally, the budget request contains $3,150,000 to pay for relocating the Board's headquarters from its present substandard facilities to facilities meeting Government standards and also pay the first year rental costs of the new facility. We have been working with the General Services Administration to identify potential sites for the Board's headquarters. Efforts first begun in 1975 were renewed in 1977 and 1978. It is our understanding that GSA can move the Board in fiscal 1980.

WINDFALL BENEFIT - GENERAL FUND APPROPRIATION

NUMBER OF BENEFICIARIES

Question: How many beneficiaries (breakout dependents separately) are currently receiving windfalls, and what is the average monthly amount of these windfalls?

Answer: The total, those receiving windfalls, and average windfall amounts are shown below for the types of railroad annuitants that can receive such amounts.

Type	Number		Average windfall
	Total	Receiving windfall	
Employee	460,000	185,000	$108
Spouse	232,000	151,000	87
Widow	302,000	58,000	44

Question: What percentage of the windfall recipients were career railroad employees who "moonlighted" in social security covered employment and what percentage were "two career" (sequential employment)?

Answer: Data are not available on the extent to which windfalls reflect "moonlighting" as opposed to sequential employment. However, 60 percent of the employee windfalls are paid to individuals who retired directly from the railroad industry (typically career men) and 40 percent to those who had left the industry more than one year prior to their year of retirement.

AMOUNT OF PAYMENTS

Question: What are the combined average monthly amounts paid (1) all current railroad beneficiaries receiving monthly benefits, (2) current railroad beneficiaries without any windfall entitlement; and (3) current railroad beneficiaries receiving windfalls?

Answer: The average regular annuity amounts for retirees, with or without windfall, are shown below. Corresponding data for survivors are not available.

Type	All	With windfall	No windfall
Employee	$409	$303	$480
Spouse	191	163	243

TYPICAL BENEFITS

Question: Please provide for the record typical benefits breaking out each component for a new retiree and his wife in 1976 including all Federal railroad and social security benefits?

Project the typical benefit for 1970, 1985, and 1990?

Answer: The receipt or non-receipt of windfalls and of social security benefits have such a marked effect on annuity amounts and composition that no one case can stand as typifying all retirement

families. Instead, three examples have been prepared (see following charts) based on actual cases on the Board's rolls. The projected annuity amounts reflect higher earnings levels for those retiring in future years and expected cost-of-living adjustments. The following list describes the cases that are represented by the various examples and gives the proportions they currently form of all retiree families.

1. Employee with eligible spouse, employee not vested for windfall payment but spouse is vested; about 17 percent of the total are represented by example 1.

2. Employee with eligible spouse, neither are vested for windfall; 25 percent are represented by example 2.

3. Employee with eligible spouse, employee vested for windfall but spouse is not (she can, however, receive a windfall based on employee's earnings); 13 percent are represented by example 3.

4. Employee with eligible spouse, both vested for windfall; 15 percent, employees are represented by example 3 and spouses by example 1.

5. Employee without spouse, vested for windfall; 18 percent of total, represented by example 3 disregarding the spouse data.

6. Employee without spouse and not vested for windfall; 12 percent, represented by example 2 disregarding the spouse data.

Example 1 - Employee has no social security earnings. The spouse is receiving a social security benefit based on her or his own earnings.

Component	Year			
	1976	1980	1985	1990
	Employee Benefit			
Tier I	$352.80	$464.80	$626.40	$753.80
Tier II	201.17	229.66	253.74	358.62
Supplemental annuity	43.00	43.00	43.00	43.00
Total railroad benefit	$596.97	$737.46	$923.14	$1,155.42
	Spouse Benefit			
Gross tier I	$176.40	$232.40	$313.20	$ 367.90
Minus social security	122.30	155.30	234.20	322.40
Net tier I	$ 54.10	$ 77.10	$ 79.00	$ 45.50
Tier II	80.57	98.99	105.50	129.32
Windfall benefit	152.72	161.76	198.98	183.80
Total railroad benefit	$287.39	$337.85	$383.48	$ 358.62
Social Security benefit	$122.30	$155.30	$234.20	$ 322.40
Total combined benefit	$409.69	$493.15	$617.68	$ 681.02

Example 2 - Employee and spouse have no social security earnings.

Component	Year 1976	1980	1985	1990
		Employee Benefit		
Tier I	$397.20	$492.20	$ 715.60	$ 930.40
Tier II	281.48	274.23	322.38	354.85
Supplemental annuity	43.00	43.00	43.00	43.00
Total railroad benefit	$721.68	$809.43	$1,080.98	$1,328.25
		Spouse Benefit		
Tier I	$198.60	$246.10	$357.80	$465.20
Tier II	102.91	158.92	218.25	268.63
Total railroad benefit	$301.51	$405.02	$576.05	$733.83

Example 3 - Employee is receiving a social security benefit. Spouse has no social security earnings but is receiving a social security spouse benefit.

Component	Year 1976	1980	1985	1990
		Employee Benefit		
Gross tier I	$395.30	$444.70	$ 601.10	$ 746.40
Minus social security	86.40	99.00	110.90	216.00
Net tier I	$308.90	$345.70	$ 490.20	$ 530.40
Tier II	169.31	186.53	204.20	294.56
Windfall benefit	111.95	129.66	174.27	153.69
Supplemental annuity	43.00	43.00	43.00	43.00
Total railroad benefit	$633.16	$704.89	$ 911.67	$1,021.65
Social Security benefit	86.40	99.00	110.90	216.00
Total combined benefits	$719.56	$803.89	$1,022.57	$1,237.65
		Spouse Benefit		
Gross tier I	$197.70	$222.40	$300.60	$373.20
Minus social security	43.20	46.50	52.00	101.30
Net tier I	$154.50	$175.90	$248.60	$271.90
Tier II	84.35	93.27	102.42	149.61
Windfall benefit	55.98	64.83	87.14	76.85
Total railroad benefit	$294.83	$334.00	$438.16	$498.36
Social security benefit	43.20	46.50	52.00	101.30
Total combined benefits	$338.03	$380.50	$490.16	$599.72

ECONOMIC ASSUMPTIONS

Question: When you made your estimate of fund balances and pay-outs for the years 1976 through 1980, what economic assumptions did you use?

Answer: The economic assumptions for regional rail protective payments were originally included in the Final System Plan published in 1975. The Plan did not include what are known as economic

assumptions per se, but rather projections as to how a reorganization of the railroads in the northeast and midwest regions would affect employment levels. The projections for the first two years of operations turned out to be fairly accurate but thereafter went awry. After that time, we began using actual payment experience as the basis for future oblegations. Very recently, the Board's actuary made projections based on data we have already accumulated. Also, Conrail has begun furnishing information which will assist us in making projections on future appropriation needs.

Question: If you had used the Social Security Trustees' Report's economic assumptions, how might your estimate have differed?

Answer: Since the payment of protective allowances are affected very little by economic assumptions, the social security trustees' report's economic assumptions would not have altered the projections.

COST ESTIMATE

Question: How were the cost estimates made?

Answer: The recommended appropriation is based on the data and assumptions used for the 13th valuation. The resulting figure is then increased by an amount necessary to make up for the shortfall in recent appropriations. The following description applies to the 13th valuation estimate.

The estimate can be thought of as the sum of the estimates of four categories:

a. beneficiaries currently receiving windfall benefits
b. "potential" spouses and widows. Portential spouses are spouses who are not yet receiving benefits even though the employee has already retired because the spouse has not yet attained the age of eligibility or is still working. Potential widows are those who either will become widows when the current employee annuitant dies, or are already widows but have not yet attained the eligibility age for benefits
c. present and former railroad workers who have not yet retired
d. spouses and widows of workers in category (c).

For every separate beneficiary type in category (a) (that is, retired employee, disabled employee, retired spouse, and retired widow), we obtained detailed breakdowns, by age, of the amount of windfall benefits the Board is paying. We then applied survivorship factors separately to each beneficiary type to determine what amounts would be paid to people in category (a) for each year of the next several decades. We then discounted these payments back to the valuation date at 3 percent interest. We feel that this component of the windfall estimate is reasonably accurate.

A major problem in calculating the windfall appropriation is the lack of data for estimating payments to categories (b) and (d). For category (b) we assumed that the average windfall payment, when it starts at some time in the future, would be the same as the current average for the corresponding beneficiary type. This amount was multiplied by a factor taking into account the expected number of

such future beneficiaries and the present value of an annuity deferred from the valuation date to the time the persons could claim benefits.

A calculation of the present value of windfall payments to category (d) was made taking into account estimated probabilities of a spouse or widow existing, being eligible for windfall payments, estimated amounts of windfall payments, and estimated present values of annuities once begun.

The estimate for category (c) is based on actual railroad retirement and social security earnings data for a one-percent sample of present and former railroad workers. From this sample an aggregate windfall amount by current age of employee was derived. These amounts were then projected forward by applying probabilities of retirement, disability or death to obtain the windfall amounts to be paid to these workers for each of the next 75 years. These payments were discounted to the valuation date at 3 percent interest.

The present values for (a), (b), (c) and (d) were added together to obtain the total present value for all windfall benefits as of December 31, 1974. Account was taken of benefits actually paid in 1975 and of the appropriation made in February of 1976 to calculate the net liability as of December 31, 1975. The level amount over the remaining period to the year 2000 equivalent to this liability was then calculated.

Account was then taken of the "investment offset", which is described in the attached Actuarial Note 3-77.

Question: Provide detailed backup for the current calculation of windfall benefit costs and a list of economic and beneficiary population assumptions.

Answer: The economic assumptions were as follows:

Calendar year	Cost-of-living increase over prior year
1975	8.0%
1976	7.1
1977	5.2
1978	5.5
1979	5.1
1980	4.3
thereafter	0

Question: What factors affecting the estimates were uncertain?

Answer: The cost-of-living increase assumption is subject to much uncertainty. The effect of alternative assumptions is given in the attached Actuarial Note 2-77. In addition, several other factors which will cause revisions in future appropriation calculations are discussed on pages 6 and 7 of Actuarial Note 2-77.

No. 3-77 August 1977

The Windfall Fund

Introduction

The purpose of this note is to discuss the method used to carry forward the windfall fund, with emphasis on the calculation of the investment offset. In order to introduce the subject it is necessary to repeat the following paragraph from Actuarial Note No. 2-77.

Section 15(d) of the 1974 Act authorizes 25 annual appropriations (one for each of the fiscal years 1976-2000) from the general funds to the railroad retirement account. The section specifies that the amount to be appropriated is to be determined by the Board. The amount is to be enough to pay for the windfall benefits (many of which will be payable after the year 2000) and for any loss of interest caused by paying these benefits. The law also specifies that the appropriation shall be the amount so calculated reduced by the gain to the railroad retirement account caused by the new investment rules in the 1974 Act. In addition, the law requires that a recalculation of the appropriation is to be made at the time of each actuarial valuation. In requiring the recalculations, the law is recognizing that periodic revisions in the annual appropriation will be necessary because the future cannot be predicted with complete accuracy.

The basic equation used to calculate a recommended appropriation is:

The amount in the windfall fund
plus
the present value of future appropriations
plus
the present value of future investment offsets
equals
the present value of future windfall benefits.

The windfall fund is calculated for the end of each calendar year. It was zero at the end of 1974 and is brought forward from year to year by using the following equation.

Fund at the end of a year
equals
fund at the end of the previous year
less
windfall annuity payments made in the year
plus
the investment offset for the year
plus
the appropriation from general funds
plus
interest.

Interest is calculated at the rate earned by the railroad retirement account during the year. This rate is calculated by applying the standard life insurance company formula for yield on invested assets to the data from the railroad retirement account, defining income to include capital gains and losses. Because annuity payments will be

more than the income to the fund for several years, the fund is expected to be negative until about 1996. Therefore, the amount of interest credited to the fund will be negative until the same date.

Investments

The assets of the railroad retirement system are invested in government obligations. At the present time some of the funds are invested in public issues but most of them are in special issues.

A public issue is a government obligation which can be held by anyone and can be traded at any time in the bond market.

A special issue is a government obligation issued by Treasury to the railroad retirement account. It cannot be held by anyone else.

There are two types of special issues. Monthly issues are issued every month and mature the next June 30. Seven year issues are issued on June 30 and mature seven years later. Both types bear interest at a rate determined by the Treasury as consistent with the money markets according to the rules in section 15(e) of the 1974 Act. Once a special is issued it can be redeemed, in whole or in part, in order to pay benefits or for some other reason.

The monthlies are issued in exchange for income to the railroad retirement account. The income consists primarily of tax receipts, interest on the specials, interest and proceeds from public issues, windfall appropriations, and transfers from social security under the financial interchange.

The interest on the specials is calculated by Treasury, taking into account the actual dates of the various transactions. Such interest is credited in June and December and becomes part of the special issue for that month. Interest is not added to an existing special.

On June 30 of every year the sum of the amounts in all specials maturing on that date is calculated. This sum is called the rollover because it is exchanged, in effect, for a new special issue maturing on the June 30 seven years later.

Under the 1937 Act the Board could specify the amount of the specials to be redeemed but Treasury decided which issue or issues would be affected. Under the 1974 Act the Board specifies both the amount and the issue. When Treasury picked the issue, the order of redemption was closest maturity first. With the Board picking the issue, the order is lowest yield first. The change became effective January 1, 1975. The obvious result is that there is more investment income to the railroad retirement system.

Since there was no substantive change in the treatment of public issues, determining the investment offset amounts to comparing the interest earned by the specials in a year with the interest that would have been earned in that year if there had been no change in the order of redemption.

The next section is devoted to a discussion of the method used to calculate the investment offset. It may be appropriate to emphasize here that each special is defined by maturity date and interest rate, even though it is convenient for bookkeeping purposes to distinguish also by month of issue.

The Investment Offset Calculation

The Board's records show the following pertinent information:

1. The balance in each special issue on December 31, 1974.

2. The amount invested each day in a new special issue.

3. The amount redeemed each day and the special issue or issues affected.

4. The amount of the rollover on each June 30 and the balance in each special issue right after the rollover.

From these records two worksheets are constructed for each calendar half-year. One worksheet is labelled "new method" and the other "old method."

The new-method worksheet summarizes the ins and outs by special issue and by month of occurrence and also shows the balance in each special at the beginning and end of each half-year. It is, therefore, a summary of the daily transactions that are shown in the records kept by the Board's accounting unit. The June 30 and December 31 balances are the same for the summary as they are for the accounting records.

The summary serves two purposes. One is to facilitate making up the old-method worksheet and the other is to perform an investment income calculation.

The old-method worksheet summarizes the ins and outs and shows the balances that would have existed if the order of redemption had not been changed from closest maturity first to lowest yield first. The format is the same as for the new method.

On each worksheet for the first half-year (ending June 30, 1975), an investment income calculation was made in order to determine the investment income for the half-year under both methods using the same assumptions; namely, simple interest, 30 days to a month, redemptions on the second day of each month, and additions on the 15th.

The difference between the two calculated investment income amounts is a good approximation to the theoretically correct difference--which is (i) the amount credited by Treasury to the account and (ii) the amount that would have been credited if the old redemption rules had been in effect. Calculating the latter item accurately has been deemed impractical because of the amount of work and the problem of finding out exactly how Treasury calculated the income for the new method. The law specifies that approximate methods may be used to calculate the investment offset, in apparent recognition of the practical difficulties in a theoretically correct calculation.

For the first half of calendar 1975 the difference in investment income (new method less old method) was $2,768,000. Therefore, the rollover for the old method was so calculated that the June 30, 1975, balance after the rollover would be less than the corresponding balance for the new method by that same $2,768,000.

Similar worksheets and similar investment income calculations have been produced for the second half of 1975 and both halves of 1976. The same procedure is planned for future years.

The following table shows the amount in each special for (i) the end of 1974, (ii) the end of 1976 under the new method and (iii) the end of 1976 under the old method. Dollar figures are in thousands.

Year of Maturity	Interest Rate	Amount on December 31 (Thousands of Dollars) 1974	1976 New Method	1976 Old Method
1975	7.500%	$ 203,639	--	--
1977	6.875	--	$ 207,103	$ 207,103
1977	6.250	--	232,535	229,720
1979	5.750	632,946	--	--
1980	6.750	1,007,618	--	--
1981	8.000	1,143,758*	1,143,821*	--
1982	7.500	--	--	613,584
1983	7.750	--	1,061,148	1,584,044
		$2,987,961	$2,644,607	$2,634,451

* The difference is due to an accounting adjustment.

The difference of $10,156,000 between the December 31, 1976, balances for the two methods is the difference in investment income for the two calendar years 1975 and 1976 combined. The breakdown by half-years is as follows.

Half-year Ending Date	Difference in Investment Income (Thousands of Dollars)
June 30, 1975	$ 2,768
December 31, 1975	1,980
June 30, 1976	2,593
December 31, 1976	2,815
	$10,156

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Dual Benefit Financing

The Financial Interchange

Under the original social security law the only beneficiaries were retired workers. This was also substantially true for the original railroad retirement law. In addition, the two systems were completely separate.

As time went on, both systems added various elements of social insurance, such as payments to dependents and survivors. Also the two systems began to be coordinated in various ways.

Perhaps the most important link between the two came from the creation of the financial interchange in 1951. The stated purpose was to put the social security system in the same financial position it would have been in if railroad employees had been covered by social security from the beginning. In order to achieve this purpose, railroad retirement pays to social security the taxes social security would have collected, and receives the additional amount that social security would have paid in benefits, if railroad employment had been covered under social security.

The net effect of this arrangement has been a large annual transfer from social security to railroad retirement. However, our projections show that, under present law, this situation will change in the future. The table below is an extract from the projections. The amounts are on a cash basis in millions. A minus sign means that the transfer is from railroad retirement to social security.

Calendar year	Projected transfer from social security
1980	$1,292
1985	1,139
1990	912
1995	621
2000	375
2005	202
2010	107
2015	-99
2020	-48
2025	61
2030	187
2035	276
2040	309
2045	303

Dual Benefits

Under the Railroad Retirement Act of 1937 it was possible for a railroad employee to be covered under both railroad retirement and social security. The social security coverage was based on nonrailroad earnings resulting either from moonlighting while in a railroad job or from coverage under the two systems at different times. The social security benefit has commonly been called a dual benefit.

The existence of dual benefits has had a considerable effect on the size of the transfers under the financial interchange. The reason is that social security pays only the additional amount that it would have paid if railroad employment had been covered.

The calculations in the following two examples of railroad employees who retire at age 65 with identical railroad earnings records are based on the social security formula in effect in April 1977.

1. Employee A has an average monthly wage (AMW) from railroad work of $400. He has no social security earnings. His monthly social security benefit (also called primary insurance amount or PIA) based on his railroad earnings is $297.80, and this is the amount that would be transferred to railroad retirement under the financial interchange.

2. Employee B is insured by social security. His AMW's and PIA's are as follows:

Earnings source	AMW	PIA
Social security only	$100	$138.90
Railroad only	400	297.80
Combined	450	319.80

In this case the financial interchange transfer to railroad retirement would be $319.80 less $138.90 or $180.90 as compared with the $297.80 for employee A; but, under the provisions of the Railroad Retirement Act of 1937, the payment from the railroad retirement system to each employee would be nearly identical--a little less for employee B because of some small deductions for a dual benefit. This was a perfectly reasonable result from the standpoint of social security, but from the standpoint of railroad retirement it was an anomaly. As a practical matter, under the 1937 Act most of the cost of dual benefits ultimately came out of the railroad retirement account.

There are two technical reasons for this result. One is that the social security formula is weighted to favor intermittent and low-paid wage earners. This can be seen from the AMW-PIA table for employee B. The other is that only the maximum taxable income for a year can be counted in calculating the AMW. Because of this maximun, the AMW for social security only plus the AMW for railroad only may be more than the AMW for combined earnings, as is the case for employee B.

The fact that the railroad retirement system bore most of the cost of dual benefits was a major reason for the poor financial condition of the system, as disclosed by the 12th valuation. In order to improve the financial condition, the 1974 Act provided that the tier 1 part of the railroad annuity be reduced by the amount of any payment made by social security. This eliminated dual benefits except for windfall payments as discussed in the next section.

Windfall Payments

It was generally considered unfair to eliminate dual benefits entirely, especially for active employees close to retirement when the new law took effect. Therefore, dual benefits that were considered vested at the end of 1974 were given back in the form of a benefit called the windfall. This benefit is available to eligible spouses and survivors as well as to eligible employees.

Except for a few widows, the windfall is based only on earnings through 1974, and will not be changed by any earnings after that year. However, the windfall will be increased by cost-of-living adjustments until the employee's retirement or death, whichever comes first. After that, the windfall is frozen and will not be increased in the future.

The rules for eligibility for a windfall and the formulas for calculating the benefits are fairly complicated and will not be repeated here. The object is to restore the dual benefit with respect to vested credits earned up to the end of 1974 or, in the case of some employees who had previously left railroad service, to the time of termination of railroad employment.

Appropriations

Section 15(d) of the 1974 Act authorizes 25 annual appropriations (one for each of the fiscal years 1976-2000) from the general funds to the railroad retirement account. The section specifies that the amount to be appropriated is to be determined by the Board. The amount is to be enough to pay for the windfall benefits (many of which will be payable after the year 2000) and for any loss of interest caused by paying these benefits. The law also specifies that the appropriation shall be the amount so calculated reduced by the gain to the railroad retirement account caused by the new investment rules in the 1974 Act. In addition, the law requires that a recalculation of the appropriation is to be made at the time of each actuarial valuation. In requiring the recalculations, the law is recognizing that periodic revisions in the annual appropriation will be necessary because the future cannot be predicted with complete accuracy.

The rationale behind any appropriation at all from the general funds is that the railroads have paid more for social security benefits than have other private employers. Social security taxes are the entire cost of social security benefits

to other private industries, whereas the railroad industry has paid the dual benefits as well as the social security taxes. The argument continues that this is a flaw in the law (which the 1974 Act is phasing out); therefore, the financial consequences should be borne by the general funds, not the railroad industry.

Before the enactment of the 1974 Act, the Board estimated that the annual appropriation should be $250 million. This amount was actually appropriated during fiscal 1976. In early calendar 1976, in connection with the 13th valuation, the estimate was revised to $344 million. There are three main reasons for the difference of $94 million. They are:

1. The 1974 estimate assumed that there would be no inflation after 1974, and therefore no increase in any windfall benefit after 1974, whereas the 1976 estimate assumed that inflation would continue through 1980.

2. The amount of the reduction due to the change in the investment rules was revised sharply downward in the light of actual experience for calendar 1975.

3. More detailed information on the size of individual windfall benefits was available in 1976 because the work of dividing annuity payments into tiers had been substantially completed by the Board.

Taking interest into account, the revised estimate of $344 million for 25 years is equivalent to $250 million for two years and $356 million for 23 years. Since $250 million has now been appropriated for each of the fiscal years 1976 and 1977, the current recommendation is $356 million per year.

The Office of Management and Budget, under both the present and preceding administrations, has been reluctant to approve an appropriation of more than $250 million. In our opinion, a temporary ceiling of $250 million would result in substantial increases in later appropriations, and a permanent ceiling would mean that a significant part of the windfall benefits would ultimately be paid by railroad retirement taxes rather than appropriations from the general funds.

The Effect of Inflation

One reason for presenting cost figures as a percent of taxable payroll is to minimize errors due to unpredictable future inflation. When both future benefits and future taxable payroll can be expected to increase with inflation in somewhat the same manner, then costs as a percent of taxable payroll can be expected to be relatively constant even if the inflation assumptions underlying the calculations should prove to be wrong, as they undoubtedly will.

For windfall benefit financing the law requires the calculation of a level cost in dollars and a recommended appropriation based on this calculation. The current recommendation was based on the assumption that inflation will stop after 1980. This does not necessarily mean that we believe that inflation will stop then.

If inflation does not in fact stop then, the recommended appropriation will prove to be too small unless there are unexpected offsetting events. On the other hand, to assume inflation forever can result in current appropriations being too large from a practical point of view. It seems better to adjust future appropriations if future inflation should require it.

The problem of future inflation is less serious for windfall financing than it might be. The saving grace is that windfall benefits are frozen once the employee retires or dies. This means that inflation in the near future will affect only some of the benefits; inflation in the more distant future will affect comparatively few. Even so, changing the inflation assumption does have a definite effect on the appropriation calculation.

In order to give an idea of the effect of inflation, we have projected windfall benefits under four different assumptions, as follows.

Calendar year	Cost-of-living increase I	II	III	IV
1975	8.0%	0	8.0%	8.0%
1976	7.1	0	6.4	6.4
1977	5.2	0	0	4.0
1978	5.5	0	0	4.0
1979	5.1	0	0	4.0
1980	4.3	0	0	4.0
thereafter	0	0	0	4.0

The corresponding projected benefits for selected years through the year 2000 are shown below.

Calendar year	Total Windfall Benefits Paid (Millions) I	II	III	IV
1977	$384	$375	$381	$381
1978	381	366	374	376
1979	381	359	369	372
1980	380	350	363	368
1985	335	283	302	322
1990	275	217	237	272
1995	212	158	176	221
2000	151	108	123	171

Year-by-year projections for years after 2000 were made only for case I. For that case the payout is $54 million in 2010, $10 million in 2020, $1 million in 2030.

Level appropriations for fiscal years 1978-2000 were calculated for all four cases on the assumption of a $250 million appropriation for each of the fiscal years 1976 and 1977. The results are as follows.

Case	Calculated appropriation
I	$356 million
II	302
III	324
IV	377

Other Factors

The possibility that inflation will continue indefinitely into the future is only one of the reasons for the necessity of periodic calculations to revise the appropriation. Five of the more important other reasons are listed and discussed below.

1. The investment offset. The Board maintains records showing how much money there would be in each government issue if our investments had been handled according to the old rules. From these records the investment offset for each completed year can be calculated accurately. However, estimating the offset for future years is another matter.

   The size of the offset depends primarily on the size of the fund and on the fluctuations in interest rates during a year. If the fund should be permitted to become very small or if interest rates should be very stable, the investment offset will be a minor item in the long run. On the other hand, it could be a major item.

2. Spouse and survivor records. The Board has no records of spouses and survivors until they become annuitants. Therefore, projections for windfall benefits to spouses and survivors are based on Social Security Administration data, statistics from the general population, and information about spouses and survivors who are drawing annuities. The lack of records increases the chance for error.

3. Court and legislative action. Either a court decision or new legislation can result in an increase in windfall benefits and therefore in the necessary appropriation. The current recommendations are based on present law and ignore the possibility of changes in either the law or the interpretation.

4. Size of actual appropriation. Although the law appears to require that the amount of an appropriation be that recommended by the Board, this may not actually happen. Whenever the actual appropriation is less than the one recommended, the likely result is an increase in future recommendations.

5. Interest rates. The pattern of future interest rates can have a large effect on the total amount appropriated over the years. The law specifies that the appropriations are to be enough to pay for the windfall benefits and also for any loss of interest caused by paying these benefits. If the proper appropriations are made, the windfall fund will be negative in the early years, becoming positive for the first time in about 1996, growing rapidly through the year 2000 and then gradually declining to zero when the last benefit is paid.

   Our calculations indicate that the fluctuations in the interest rate have more financial impact than the level of interest rates. For example, the difference between a constant interest rate of 3 percent and a constant rate of 6 percent is minor as far as the effect on the total appropriation is concerned. However, a high interest rate while the fund is negative followed by a low rate while the fund is positive would produce a much larger appropriation than the opposite pattern.

   Since interest rates are determined by a number of things, including inflation expectations and federal monetary policy, accurate long-range forecasting of patterns is not really possible.

Windfall Beneficiaries

It is helpful to think of the persons eligible for windfall benefits as being divided into two groups--those on the rolls and those not on the rolls, where "on the rolls" means drawing a windfall annuity.

It is possible that court decisions or new legislation will give windfall benefits to persons not now eligible. Except for this possibility, the number of persons eligible can never increase because there can never be any new eligibles. The number will decrease, however, because of death and other disqualifying events. Eventually--sometime in the 21st century--there will be no one left.

In the meantime there can be shifting from one group to the other. The work rules can result in a person's windfall benefit being suspended and that person will move from "on the rolls" to "not on the rolls." A move in the other direction will occur when a windfall payment begins or resumes.

The net result of the shifting between groups and the attrition in the total number is that (i) the number of persons not on the rolls will decrease rather rapidly and will be fairly small by the end of this century, and (ii) the number of persons on the rolls will also decrease but more slowly. There will still be a few as late as the year 2050.

The present law and present valuation methods combine to say that the last appropriation calculation will be made in connection with the 20th actuarial valuation. This calculation will be made early in calendar 1997. By that time the number of eligibles not on the rolls will be much smaller than it is now. Therefore, projections of future windfall payments made at that time should be fairly accurate. However, no projection can be completely accurate. Also the present value of future benefits at that time will probably be on the order of one billion dollars, which is clearly too much to dismiss as minor.

For that reason consideration might be given in the early 1990's to amending the law to make sure that the appropriations exactly pay for the windfall benefits. The law could specify the following procedures.

1. The windfall fund calculation will be carried forward every year until the last windfall payment has been made.

2. If at any time the windfall fund should be on the verge of becoming negative, an appropriation will be made in an amount determined by the Board.

3. If at any time the balance in the windfall fund should appear to be more than necessary to pay future windfall benefits, an amount determined by the Board will be transferred from the railroad retirement account to the general funds.

4. Any balance in the windfall fund after the last windfall benefit has been paid will be transferred from the railroad retirement account to the general funds.

Summary

The amount of the windfall benefits to be paid in the future depend on many things which defy accurate prediction. Therefore, it is unrealistic to expect the calculated appropriations to be the same for each valuation.

Every year there are fewer eligibles not on the rolls so that the benefit projections will be more and more accurate as time goes on.

Under present law, the periodic appropriation calculations are intended to be self-correcting and this will actually be substantially true provided the recommended and actual contributions become equal to each other before too long.

Note

There is a logical way to avoid dependence on predictions of future events and also to eliminate the possibility--barring very high inflation--of increasing appropriations. This way is to change the law so that the appropriation made at the start of any fiscal year is equal to the windfall benefits actually paid in the preceding calendar year plus interest from the date of payment to the date of appropriation less the investment offset.

The main thing wrong with this is that such a change would increase the near-term appropriations.

ACTUARIAL VALUATION

Question: How likely is it that the Actuarial Valuation scheduled to be completed in 1979 will estimate that windfall costs are substantially (over $20 million) higher than projected in the 1976 Valuation?

Answer: It was estimated in the 13th valuation that a level annual amount of $350 million over the period fiscal 1977-2000 would be required to fund windfall benefits. However, for fiscal years 1977 and 1978 only $250 million was appropriated. This caused the actuary's recommendation for fiscal 1979 to be $363 million, to make up for the missing $100 million and interest thereon in 1977 and 1978. For fiscal year 1979 only $313 million was appropriated, so another $50 million and interest thereon has to be made up for in the 14th valuation. Therefore, if the question is interpreted as "How likely is it that the valuation scheduled to be completed in 1979 will estimate that the level appropriation should be $370 million or more?" the answer is, it is virtually certain.

However, the spirit of this question may be: "Assuming that $350 million had been appropriated for fiscal years 1977, 1978, and 1979, how likely is it that the actuarial valuation scheduled to be completed in 1979 will estimate that the level appropriation should be $370 million or more?" It is not possible to answer this question at this time. As Actuarial Note 2-77 indicates, the recommended appropriation depends among other things, on the inflation assumption. It is not yet known whether the recommendation will be based on an assumption of inflation continuing after 1980.

Question: What is the upper range that the cost estimates of windfall benefits could reach in the 1979 Valuation?

Answer: Page 6 of Actuarial Note 2-77 shows how the inflation assumption can affect the cost estimate for windfall benefits. The 1976 valuation assumption (inflation continuing through 1980) produces a $356 million estimate (after adjustment for one year of $250 million instead of $350 million). The assumption of inflation continuing indefinitely produces a $377 million estimate. Combining an assumption of continuing inflation with the necessity of making up for past shortfalls in the appropriation could easily produce an estimate of $380 million to $400 million. In fact, the General Accounting Office has audited the Board's windfall calculation. They estimate that under the present funding method, 21 level appropriations of $415 million beginning in 1980 would be needed.

EFFECT OF SOCIAL SECURITY FINANCING AMENDMENT

Question: What are the effects of the 1977 Social Security Financing Amendments on (1) current windfall beneficiaries and non-windfall beneficiaries and (2) future windfall and non-windfall beneficiaries?

What, for example, is the individual effect of the provision freezing the Social Security minimum benefit, or the new provision affecting the actuarial reduction of Social Security benefits on differing railroad retirement, windfall and disability benefits?

Answer: The 1977 social security amendments have no effect on windfall benefits for employees and spouses, either current or future. This is because such benefits are based only on earnings through December 31, 1974, and on the social security benefit formula in effect on that date. Windfall benefits to widows currently on the rolls are also unaffected. Windfall benefits to widows who begin receiving such benefits in the future will be slightly increased because of the nature of the widow windfall formula. (The "decoupling" provision reduces the subtractive item in the computation of the widow windfall.)

The non-windfall portion of railroad retirement benefits for future windfall and non-windfall beneficiaries will, however, be affected. The "decoupling" provision will reduce railroad retirement tier 1 benefits the same as they reduce social security benefits. In addition, tier 2 benefits for future widow beneficiaries will be reduced because they are 30 percent of tier 1.

The provision freezing the social security minimum benefit will have an insignificant effect on railroad retirement beneficiaries. This is because railroad retirement tier 1 benefits, which are computed using combined railroad retirement and social security covered earnings, are hardly ever low enough to be affected by the minimum.

The provision affecting actuarial reduction of social security benefits will have only a minor effect on employee and spouse beneficiaries. This is because the railroad retirement actuarial reduction procedure was not changed by the amendments. The effect on employees and spouses will be to increase slightly the railroad benefits of those employees and spouses who have a reduced social security dual benefit. (Since the social security dual benefit will be smaller, the reduction in the railroad retirement benefit for receipt of a social security benefit will be smaller.)

The change in the actuarial reduction procedure will affect widows, however, in the same way that they affect social security beneficiaries. Those who retire before age 65 will receive less than they would have under the previous arrangement.

SUBCOMMITTEE RECESS

Senator BURDICK. The subcommittee will recess until Tuesday, February 21, when we will hear the 1980 budget request from the Department of Labor.

[Whereupon, at 11:55 a.m., Friday, February 9, the subcommittee was recessed, to reconvene Tuesday, February 21.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

WEDNESDAY, FEBRUARY 21, 1979

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

The subcommittee met at 10:15 a.m., in room S–128, the Capitol, Senator Warren G. Magnuson (chairman) presiding.

Present: Senators Magnuson, Eagleton, Burdick, Schweiker, and Mathias.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY OF LABOR FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

ROBERTS T. JONES, OFFICE OF COMMUNITY EMPLOYMENT PROGRAMS, CETA
WILLIAM B. HEWITT, ADMINISTRATOR, OFFICE OF POLICY, EVALUATION AND RESEARCH
CAROLYN M. GOLDING, COMPTROLLER FOR EMPLOYMENT AND TRAINING
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HARRIET MICHEL, OFFICE OF YOUTH PROGRAMS
WILLIAM T. FURMAN, ACTING DIRECTOR, OFFICE OF BUDGET, DOL

BUDGET REQUESTS

Chairman MAGNUSON. The committee will come to order. Members of the subcommittee are on their way. We may have a long hearing, so we'd better start now.

I have a very short statement that I want to make.

Today we begin a week of hearings on fiscal year 1980 budget requests for the Department of Labor.

This morning's session will focus on fraud and abuse in summer youth and public job activities under the Comprehensive Employment and Training Act—the CETA program.

In the coming days, we will examine each specific program administered by the Labor Department, winding up on Friday with

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an overview session with Secretary Marshall. I plan to also question Secretary Marshall about fraud and abuse in CETA.

We have chosen to open these hearings with a special emphasis on fraud and abuse due to widespread reports about mismanagement of Labor Department employment and training programs. These CETA programs are budgeted at $9.3 billion for fiscal year 1980, more than 75 percent of the entire $12.2 billion Labor Department request.

I'm especially pleased that Senator Chiles is here, to unveil a GAO report indicating a shocking misuse of funds in the summer program for economically disadvantaged youth.

In addition, I'm concerned about the high level of unspent funds for public service jobs, which appears to mean there is an excess of at least $400 million in the fiscal 1980 budget. I'm also concerned about an internal Labor Department audit which suggests that 9 percent of CETA particiants may actually have been ineligible, which means—and we can't get the exact figures—between $389 and $842 million of appropriated public service employment funds may be expended on ineligible participants.

Our chief witness in front of this committee has something significant to say.

REMARKS BY SENATOR CHILES

Senator CHILES. Mr. Chairman, I did have an opening statement, if I might make that.

Today's hearing covers three major topics: The anti-fraud and abuse activities of the Department of Labor; the GAO report on the summer youth employment program; and the levels of public service employment to be funded in 1979 and 1980.

These topics are all interrelated, because widespread reports of fraud and abuse in CETA have created a public attitude that threatens the very continued existence of the program. Making CETA work right requires more than just political support for funding. It requires active cooperation of businessmen and nonprofit agencies to participate in training and employment programs, and ultimately to hire CETA enrollees. If the program has an image of either scandal or inefficiency, we will not see this cooperation.

PROBLEMS IN THE SUMMER YOUTH EMPLOYMENT PROGRAM

Three months ago I asked the General Accounting Office to investigate the summer youth employment program and detail to us just what was going on.

Unfortunately, it looks as if the public's negative image of the CETA program is a valid one.

The General Accounting Office report we will examine today shows us that in the summer youth employment program:

One, half of the worksites visited, covering 70 percent of the sampled enrollees, did not meet minimum standards for providing a meaningful work experience;

Two, 57 percent of enrollees were at sites which did not provide enough useful work for even 3 or 4 hours a day;

Three, 54 percent of enrollees were at sites where supervision was too lax to instill basic good working habits;

Four, the Department of Labor did not provide sufficient management oversight to assure that meaningful programs existed;

And five, there was practically no recruiting of high school dropouts, a high-priority service group.

If the operation and management of the rest of the public service jobs program is in equally bad shape, then billions of tax dollars are being wasted.

Perhaps even worse than the wasting of money in the summer youth employment program is the detrimental effect on the participants. For most youths, this kind of summer job is their first job. If they get no supervision, then they cannot learn any useful skills.

If they are not provided any meaningful work to do, then they get a message that American society will not believe they have any useful contribution to make. They get a message that the Federal Government will pay them to not work, to not get any experience, to not get onto the normal career ladder.

They get a message that there is so much extra money around that they can get it without working.

In brief, they get such a strong message of cynicism and corruption that it cannot fail to carry over into their attitudes about work, crime and society.

If disadvantaged youths are being shortchanged the way the GAO study describes, then we will all be the losers.

I have been among those pushing for a redirection of CETA away from countercyclical public employment, back to a comprehensive training and employment program for the hardcore and structurally unemployed.

We have made a national commitment to minorities, youth and the economically disadvantaged, and I will continue to support providing the funds to meet that commitment.

The Department of Labor's news releases and new regulations are well in tune with the congressional mandate to shift the emphasis of CETA. But it is going to take more than news releases and regulations, it is going to take concrete actions.

If we are going to maintain public support for a large program for the structurally unemployed, then the Department of Labor is going to have to convince everyone that the program is operating differently. It will take a demonstration from both Congress and the administration that we are willing to clamp down and clean up the programs that have caused trouble so far.

From what our staff has turned up in its preliminary investigations, I have yet to be convinced that the Department of Labor has allocated anything near the staff resources necessary to investigate, prosecute and prevent fraud and abuse in a program which spends $11 billion a year in almost every city and county in America.

It looks to me like the Office of Special Investigations, which was created with such fanfare, has taken a very narrow view and is only investigating allegations of criminal fraud. Categories of abuse such as nepotism, ineligibility, political patronage, and gross malfeasance are referred back to the Employment and Training Administration, ETA.

While the Office of Special Investigations, which will be absorbed into the Office of the Inspector General has 106 auditors, it only

has 45 professional investigators on board. The Office of Investigation and Compliance in ETA only has 44 investigators. That is a total of 89 investigators to cover CETA programs which spend $11 billion a year in over 50,000 locations spread around every city and county in the United States plus the $22 billion unemployment insurance program.

The result is that most complaints are referred back to the program's field staff, who have to review all the local plans and grant applications. They have neither the time nor the training to investigate fraud and abuse.

Moreover, since they have told Washington that the program is operating correctly, they have an incentive to minimize the appearance of program abuse. As we go into detailed questioning, I will want to explore just what is a workable staffing arrangement to adequately monitor and prevent fraud and abuse.

UNDERENROLLMENT IN PUBLIC SERVICE EMPLOYMENT PROGRAMS

I am also shocked to have learned that last fall the Department of Labor overestimated the number of public service jobholders by 150,000. Last October, when we were considering the continuing resolution for CETA, the Department told this committee that there were 710,000 people on board. There turned out to be only 595,000. This miscalculation amounts to about $1 billion of excess funds tied up for the program.

If we project these new enrollment estimates forward and continue a phasedown through attrition in the countercyclical portion of the program, then we can save from $1 billion to $2 billion in the President's budget. And we can do it without laying anyone off, only through reducing new hires.

EFFECTIVENESS OF PUBLIC SERVICE EMPLOYMENT PROGRAM

Finally, we will be exploring the effectiveness of the public service jobs programs in preparing people for the world of work. I have been dismayed by the Department's summary of statistics for the fiscal year we have just completed, fiscal year 1978. Of 531,200 enrollees terminated from title VI jobs, only 80,200 or 15 percent were placed in unsubsidized employment after leaving CETA. The incredible number of 294,800 or 55 percent had nonpositive terminations. That means more than half were failures according to Labor Department goals.

I am all for providing people work instead of welfare, but if the program cannot provide enough training, referral, counseling, and support to get people into unsubsidized jobs, then you are kidding the public and kidding the participants.

The inability of public service employment to prepare most CETA enrollees for normal jobs is the reason why the new title II emphasized training, counseling, upgrading of skills, referral and the other components of a comprehensive program.

We funded CETA for 1979 by a continuing resolution because the reauthorization had not yet passed Congress. I hope that after completing these hearings we will be able to move rapidly to a regular appropriations bill for CETA so that we can address these problems and undertake some of the promising new directions.

Chairman MAGNUSON. The Senator from Maryland.

REMARKS BY SENATOR MATHIAS

Senator MATHIAS. Thank you, Mr. Chairman.

I'm encouraged to see such a full complement from the executive branch across the table, notwithstanding the difficulties this morning. I think it speaks very well for the seriousness with which all of us are approaching this meeting this morning, and it's seriousness which is, I think, merited, because we are meeting here to talk about a program for the coming year, talk about how the Executive Branch will coordinate with the legislative branch in developing programs which will touch the lives of millions of Americans. And it merits the extra physical effort that it took to get over the icy streets of Washington to get here.

We're talking about programs which are somewhat controversial in America, programs about which there are honest differences of opinion. They're what I suppose you would call social problems, which have been the subject of debate in the Congress of the country.

Our chairman and I have usually come down and made decisions on programs in this area on the side of humanity and compassion, I believe, Mr. Chairman. And we've registered our votes and made our record in that area, despite the differences of opinion.

But I think we ought to make it perfectly clear that there is no difference of opinion on this committee or I think anywhere in this country about misuse of public money. And when I talk about misuse of public money, I'm talking about something more than theft or fraud. I'm talking about ineffective use of public money. Because that's one way of robbing the public just as clearly as outright theft.

And I think every one of us at this table, on both sides of the table, wants to see the most effective use made of public money and the most effective use of programs that we're here to discuss. And I have no doubt in my mind but that everyone wants to do the things which will make those programs effective and efficient.

But as we start out, I'd like to make it clear about the genuine duties that exist.

Last fall, I formed what I call a proposition 13 committee in Maryland. Most of the membership of that proposition 13 committee was drawn from the metropolitan area of the City of Baltimore. The majority of the committee is black. Many of the people who are members of the committee are closely related to either institutions or individuals who are beneficiaries of the programs we are here to discuss this morning.

And I am impressed by the number of the members of my proposition 13 committee who say that they would vote for proposition 13, if they had a chance, black and white. Because they don't feel the public's getting their money's worth out of the programs that are being designed to help urban communities, black communities. And they feel that the enrollees are being cheated because the programs are not efficient, because they don't come out of the programs with anything significantly more than they went into the programs with.

Now, this is not criticism coming from outside. This is criticism coming from really inside the programs. These people are disserved. They're upset. I think it's up to all of us together to try to find some answers for them.

After all, the money to support these programs comes from all of our citizens, black and white, urban and rural. And nobody wants to see their tax money wasted. And I think we have an opportunity, and I hope we view it as an opportunity here today, to improve upon a situation, to improve upon the image which is just illustrated by this headline in a Newport News newspaper: "Squandered Millions Bob in the Wake of CETA Saga." "Inept Management Adds to CETA Fraud."

Well, that's the image. As you all know, in public life the perception very rapidly becomes the fact. And we want to change that image. We want to change the facts.

I think we are here to work together to achieve that end and to provide for the people of America who need help, the kind of effective, efficient help that all of us want to see they get.

Chairman MAGNUSON. Senator Eagleton?

REMARKS BY SENATOR EAGLETON

Senator EAGLETON. I have a brief statement, Mr. Chairman.

At the end of the last session of Congress, we enacted the bill which I authored on the Senate side to set up, in 12 major departments of the Government, an Office of Inspector General. Now, the Labor Department, prior to last year's bill, did have an Office of Special Investigation. It's my understanding that's now the basic nucleus of the Office of the Inspector General.

The purpose of setting up that position within these 12 major departments was to have an ongoing, day-to-day functioning investigative unit that could pursue matters not only of fraud and theft, but matters pursuant to waste, inefficiency, and I guess even the verb squandering would be a part thereof.

Although that office is not under the supervision of Mr. Green in the hierarchy of the Labor Department, I hope the Labor Department people that are here present in the room today will take into account that I want to see, when we get to that portion of the Labor Department budget, whether their staff requests are adequate to cover a $10 billion program that has been described so well by Senator Chiles.

Are 45 investigators enough to monitor a $10 billion program that has so many different prime sponsors and is dealing with tens of thousands, hundreds of thousands, really, of individuals who are in one facet or another part of the CETA program?

What worries me, and I'm sure worries the Labor Department, is that if this program continues to wear the label of squander, waste, fraud, the risk comes that maybe Congress would cancel the whole thing and say: Well, look, it is so rife with ineptitude that we just ought to cancel the entire program.

And that risk, of course, would work to the detriment of many thousands of young men and women who, but for this program, would not have a job opportunity. That is, Congress may be so repelled by the existing misfeasance of the program that it throws

out the good aspects with the bad. And I think that's an increasingly high risk, because in this day and age of tight budgets and fiscal restraint, a multibillion-dollar program that has the labels waste and inefficient attached to it is a prime subject for many billions of dollars of savings.

We're not just talking about a few thousand dollars; we're talking billions.

And I know Senator Chiles has been watching this program very carefully for the past couple years or more. We had a debate on it at the closing of the last session of Congress, I think the very last night we were in session. So he is no latecomer to this program. And he's pursued it, and I know, his character being what it is, he will continue to pursue it in the future, and properly so, because he's saying there is waste here, and I think he's right.

I'm not trying to threaten or intimidate the Labor Department or anything. But I think there's a considerable risk involved in what we're doing here today, that unless this thing is tightened up, unless the new Office of the Inspector General is really on top of this thing with an adequate amount of professional auditing and investigative manpower, the whole CETA program is, in my opinion, in considerable jeopardy.

Thank you, Mr. Chairman.

FISCAL CONTROL AND EFFICIENT MANAGEMENT

Chairman MAGNUSON. Of course, 60 percent of the money that the Appropriations Committees appropriate is what we call uncontrollable. There's only about 40 percent that we can assume responsibility for and make the cuts that need to be made. This would be a logical one.

So we're trying to look at it, and the Senator from Missouri, the Senator from Maryland and the Senator from Florida and all of us are thinking: How can we carry out the objectives of this program and still do it in an efficient way, and not have these matters crop up which give it a bad name?

And right now, if we considered cutting CETA on the Senate floor, it would carry. But maybe that isn't the right thing to do. Objectives of the program are good. We've all agreed to that. It was extended last year in the supplemental, and that's why we're so concerned about these problems.

Now, Mr. Green, you're the first witness.

Mr. Green is the Assistant Secretary for Employment and Training. He's accompanied by Mr. Gerald Gotsch from the Office of the Inspector General.

Mr. Green, you've talked about the ineligible participants, nepotism and political patronage, and additionally, some outright fraud. We'd like to know what you plan to do about it.

INTRODUCTION OF ASSOCIATES

Mr. GREEN. Thank you very much, Mr. Chairman.

I would like to, for the record, introduce the witnesses that are accompanying me at the table.

To my far left is Roberts T. Jones, Director, Office of Community Employment Programs, CETA; Bill Hewitt, who is the Administra-

tor, Office of Policy, Evaluation and Research; and Carolyn Golding, who is the Comptroller.

To my immediate right is: Robert Taggart, Administrator of the Office of Youth Programs; and to his right, Ms. Harriet Michel, who is also with the Office of Youth Programs. And to my far right, William Furman, who is with the Department of Labor, Budget Officer.

Senator EAGLETON. I take it there's nobody here from the Inspector General's Office?

Mr. GREEN. Mr. Chairman, Senator, the Inspector General's Office wasn't able to get a person here, due to the weather——

Chairman MAGNUSON. I had my list. Mr. Gotsch?

Mr. GREEN. He was unable to be here. He has the flu with a 102 degree fever. He will not be here, no, sir.

Senator EAGLETON. Is there anyone in the room from the Labor Department that is affiliated with the Office of the Inspector General?

[No response.]

Senator EAGLETON. I don't want to be a nitpicker, but it seems to me, when it was well known that this subject matter was going to be taken up, especially with the GAO report, copies of which had gone to the Department of Labor, at least somebody could have made it to Capitol Hill from the Office of the Inspector General. It's not a one-man department, is it?

Mr. GREEN. We are trying to get someone here. At the time that we came up, Senator, they were unable to get here due to the weather.

Senator EAGLETON. From the whole Office of the Inspector General?

Mr. GREEN. I walked here from my residence. The other staff members walked here. I don't know how the process of transportation is.

We will try to send someone out to try to see if they can get someone.

Chairman MAGNUSON. Do you want to proceed further without——

Senator EAGLETON. I think we ought to proceed, Mr. Chairman.

Chairman MAGNUSON. All right. Go ahead.

Mr. GREEN. Thank you, Mr. Chairman.

For the record, I'm submitting three detailed statements. They cover the employment and training budget requests, and I'd like to, in summarizing, make some general comments about the budget as a whole.

As indicated in the President's and the Secretary's budget message the budget is lean and austere, and reflects the fiscal restraint necessary to demonstrate that the Federal Government is willing to take the lead in the fight against inflation.

PUBLIC SERVICE EMPLOYMENT

In our request, we are submitting a request for $4,727,000,000, which covers public service employment for the structurally unemployed as authorized under CETA title II-D and countercyclical public service employment as authorized under CETA title VI. This

will provide an average of 546,000 jobs at an average unit cost of $9,500.

Of the total amount requested for title II–D, $175 million of discretionary resources will be provided to prime sponsors to support welfare reform demonstration projects.

Chairman MAGNUSON. Before you go any further, I'll pursue this later on, but if you say the average unit cost is $9,500——

Mr. GREEN. Yes, sir.

Chairman MAGNUSON. What was it last year?

Ms. GOLDING. $9,200.

Chairman MAGNUSON. So it hasn't gone up too much?

Ms. GOLDING. $300.

Chairman MAGNUSON. I just wanted to get that on the record. OK. Go ahead.

Mr. GREEN. A total of $2,190,500,000 is requested for title VI countercyclical public service employment, which is a decrease of $1,284,454,000 from the fiscal year 1979 level. The decrease in this program reflects the decline in the unemployment rate from 7.3 percent, when the President proposed his economic stimulus program, to an average of 6.2 percent estimated for fiscal year 1980.

During the first quarter of fiscal year 1979, public service employment enrollments declined to levels not anticipated when the fiscal year 1980 budget was formulated. Due to uncertainties associated with late enactment of both the authorizing legislation and the continuing resolution, as well as the inclusion in the new law of strict enrollment provisions such as average wage, entry level jobs and maximum period of participation requirements, the prime sponsors allowed enrollment levels to decline to 517,000 at the end of December.

The uncertainties caused by late passage of the authorizing legislation and the continued resolution have, of course, been resolved, and it is anticipated that the legislative difficulties can be overcome. And the Secretary and the Employment and Training Administration have a management plan to deal with the situation and will forward it to Congress.

REFOCUSING CETA

During the last year, the Secretary indicated four items of extreme importance in refocusing CETA. One is the issue of targeting. Another is greater private sector involvement. The other is eliminating fraud and abuse. And the fourth is improving management systems.

FRAUD AND ABUSE

To help reduce fraud and abuse, the Employment and Training Administration has established the equal employment and compliance units in the regional offices, to strengthen the Department's capacity to respond to allegations and suspicions of wrongdoing.

To keep top management officials informed about allegations and investigations of fraud and abuse, we have established a report on questionable activities. This report has provided management with information about the existence of questionable activities, the plans of action to investigate suspected wrongdoing, the status of investigations, and the outcome of these investigations.

The new CETA Amendments of 1978 also provide us with new and added provisions for dealing with fraud and abuse. The provisions regarding sanctions such as the withholding of funds, termination of grants, the requirement that prime sponsors establish independent monitoring units, the added bonding requirements, and the requirement that eligibility of participants be verified and other provisions, will prove effective in the prevention and elimination of fraud and abuse.

I'd like to now go into our youth programs, the budget requests for——

RESTORED CETA FUNDS

Chairman MAGNUSON. Now, we'll make a point here. You say in your opening statement that you've collected $1,516,000, correct?

Mr. GREEN. That has been updated. We have presently collected $6,500,000, and we're negotiating with——

Chairman MAGNUSON. Out of how many billion?

Mr. GREEN. In total last year, it would have been a little bit under $11 billion.

Senator EAGLETON. A hundredth of 1 percent?

Mr. GREEN. Well, I would say, Mr. Chairman, I think your assumption is that each of the prime sponsors is engaged in a fraudulent activity. As the Secretary has pointed out many times, the bulk of the CETA system does run well, runs without misuse of funds, and that this restoration, as well as the termination of three prime sponsors, represents——

Chairman MAGNUSON. Well, it's much greater. Go ahead.

YOUTH PROGRAMS

Mr. GREEN. On our youth programs, the budget request is for $1,098,451,000, an increase of $167,555,000 over the $930,896,000 provided in the fiscal year 1979 budget. This reflects a shift within the four programs to more highly targeted programs for economically disadvantaged youth.

The request for the youth community conservation and improvement project is $134,008,000, an increase of $26,908,000 over the fiscal year 1979 level of $107,100,000. The youth incentive entitlement projects will continue through fiscal year 1979, but will be phased out during fiscal year 1980. The request for youth employment and training programs, which serves a larger number of economically disadvantaged youth with relatively low cost, is for $797,974,000, an increase of $298,178,000 over the fiscal year 1979 level of $499,796,000.

The Young Adult Conservation Corps, which has no economic prerequisites for participants, request is for $166,469,000, a reduction of $50,431,000.

The summer youth employment program for fiscal year 1980 will exclude 14-year-olds and restrict enrollment to economically disadvantaged youth aged 15 to 21 during the summer months. The request for this program totals $533,225,000, and includes $122,133,000 in funding deferred from fiscal year 1979. This is a decrease of 250,000 jobs from the 1 million jobs projected for fiscal year 1979.

The Job Corps reflects an increase of $119,700,000 over the $296,000,000 provided in fiscal year 1979. The funds will allow the Job Corps to reach 44,000 slot level during 1980 and will provide 42,000 years of service. The total number of operating centers will be approximately 106.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Jobs for the elderly, appropriations for this program provide funding for program years which extend from July through June. Currently a total of 47,500 job opportunities are being provided.

A supplemental request of $8,900,000 is requested for fiscal year 1979. The need for the supplemental is due to the change in the minimum wage.

COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

Comprehensive employment and training services are authorized by title II-A, B, and C. The funds provide assistance, primarily by formula, to about 460 local prime sponsors to design local comprehensive employment services to ease the barriers to labor force participation of economically disadvantaged persons, and to help them increase their earnings.

The request for title II-A, B, and C is $2,054,000,000 and represents an increase of $139,900,000 over the fiscal year 1979 level of $1,914,000,000. This amount will maintain 423,700 years of service, the same level projected for 1979. The increase will provide for the higher cost of wages resulting from the minimum wage change.

PRIVATE SECTOR PROGRAMS

A major effort by the Department is for expanded job opportunities to economically disadvantaged people in the private sector. To do this, we're requesting a $400 million appropriation for fiscal year 1979 for the private sector programs as authorized under title VII of CETA, and for the targeted employment tax credit program established by the Revenue Act of 1978.

The private sector initiatives program under title VII is not only to create training opportunities for the disadvantaged in the private sector, but also to redirect the CETA system more toward a private sector focus, since five of six jobs are located in the private sector. The ultimate success of employment and training programs depends on whether the programs help participants to obtain permanent jobs at adequate wages in the regular economy.

OTHER NATIONAL PROGRAMS

The request for other national programs is $326,011,000, a net decrease of $45,621,000 from the $371,632,000 available in 1979.

The request includes $165,861,000 for the title III employment and training programs for native Americans and Indians, and migrants and seasonal farm workers.

A total of $117,740,000 is requested for national programs to provide employment and training assistance and essential supportive services for special population segments as authorized under title III.

WORK INCENTIVES

The fiscal year 1980 budget request for the work incentives program totals $385 million, and provides about the same program level as in fiscal year 1979.

GRANTS TO STATES

The budget request for grants to States for unemployment insurance and employment services provides an availability of $1,796,600,000, which is an increase of $81,400,000 over the fiscal year 1979 availability.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

The Advances to the Unemployment Trust Fund and Other Funds appropriation provides general revenue advances for the purpose authorized under the various Federal and State compensation laws. The 1980 request of $300,000,000 is based on the anticipated requirements of the black lung disability trust fund, which is administered by the Employment Standards Administration.

PROGRAM ADMINISTRATION

A fiscal year 1979 supplemental of $2,079,000 is being requested for Program Administration to cover the cost of the Federal pay increase effective October 8, 1978.

The budget request for fiscal year 1980 is $119,341,000 and 3,134 positions. This represents a net decrease of $6,009,000 and 433 positions from the fiscal year 1979 adjusted appropriation level.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

The budget request provides for $980 million, which is an increase of $130 million from the revised 1979 appropriation of $850,000,000. It consists of an appropriations request of $950,000,000 and a reimbursement from the U.S. Postal Service of $30,000,000.

Mr. Chairman, this ends my overview statement. I'd be happy to answer questions from any of the members.

Chairman MAGNUSON. It's true, it's a lot of figures.

How much is your total budget?

Mr. GREEN. About $12.5 billion in direct appropriations and that would not be taking into account the unemployment insurance trust fund unemployment benefits.

Chairman MAGNUSON. $12.5 billion?

Mr. GREEN. Yes, sir.

Chairman MAGNUSON. How much is that over last year?

Mr. GREEN. It is about——

Chairman MAGNUSON. $1.3 billion less than last year?

Mr. GREEN. Yes.

INELIGIBLE PSE PARTICIPANTS

Chairman MAGNUSON. Now, we'll look at those figures later. Let's get back to the nitty-gritty of what we're trying to talk about here, making this program more efficient. Your opening statement

indicates that less than 1 percent of CETA funds are suspected to be wrongfully expended. Is that correct?

Mr. GREEN. Yes, sir, that is correct .

Chairman MAGNUSON. And that the Labor Department audit last April indicated that 9 percent of the persons employed in public service jobs were not eligible. Which figures are we to believe?

Mr. GREEN. Well, the experience with the Department is that these funds are recoverable, so where we find prime sponsors that have ineligible enrollees, after verification, we try to recover the funds.

Chairman MAGNUSON. How much did you get back?

Mr. GREEN. In the city of Philadelphia, we got $240,000 back.

Chairman MAGNUSON. $240,000? That's a biggy.

Mr. GREEN. Of the ineligibility for the city of Philadelphia.

Chairman MAGNUSON. How much did you spend in the city of Philadelphia?

Mr. GREEN. I don't have it with me.

Chairman MAGNUSON. Well, it's millions.

Mr. GREEN. It would be somewhere in the neighborhood of $25 to $30 million.

Chairman MAGNUSON. And you got back $240,000? That's pretty good.

Mr. GREEN. Well, the assumption, Senator, is that all the participants in the program would not be ineligible. After the investigation, Philadelphia, Chicago, and Cleveland repaid the funds out of their capital budget.

Chairman MAGNUSON. What should we do with the Labor Department audit? That is, the information that 9 percent of the persons employed in the public service jobs weren't eligible. This was your own audit.

What are we supposed to believe? You say it's down to less than 1 percent because the 9 percent doesn't mean anything, because you're getting it back. You're not getting it back. Philadelphia figures are typical of the United States. What figure are we supposed to believe up here?

Ms. GOLDING. The history of the audit process has been: One, that the findings are indicated; then the prime sponsor is given time to rebut the audit findings.

Our 9-percent figure is one that has to be checked against the individual prime sponsors' records. And at this point it is not a final number on the ineligibles, and it has not been our experience that the ineligibility under the tightened requirements now, both in terms of income, and in terms of length of unemployment, has shown an increase.

In fact, it has shown a decrease.

Chairman MAGNUSON. Well, I have here the internal audit. It says 9 percent of participants sampled were ineligible, and for 2 percent, there was insufficient information available to determine eligibility. Between $389 million and $842 million in appropriated public service employment funds may be expended on ineligible participants, on which improvements are not made.

This is your own report.

Mr. GREEN. Mr. Chairman, as the report indicates, the procedures do allow the prime sponsors to respond to the audit findings.

UNRESOLVED AUDIT REPORTS

Chairman MAGNUSON. Let's get down to it. Now, GAO found that in 1977 the Department had 2,000 unresolved audit reports with outstanding costs of $165 million. Of this amount, $135.7 million has remained unresolved for a year or more. Some reports have remained unresolved for more than 5 years. The average is over 2 years.

How do you account for that?

Mr. GREEN. We have—let me get my figures so that I——

Chairman MAGNUSON. How many have been resolved now?

Mr. GREEN. The number of audits that have been resolved? Let's see. We reported——

Ms. GOLDING. We have about $67 million in questioned costs outstanding, and a decreased number of audit reports now pending.

We've improved our system for tracking audits pending and responding to them in a timely fashion. However——

Chairman MAGNUSON. How much money have you recovered altogether?

Ms. GOLDING. About $6.5 million so far; $2 million is under negotiation.

Chairman MAGNUSON. Well, that's a figure that's pretty high.

Senator CHILES. Are you talking about within ETA or the Office of the Inspector General?

Ms. GOLDING. We're talking about recovery of costs in ETA, based on allegations of fraud and abuse. The audit findings, once they question our cost, there is a whole process we go through trying to supply, for instance, the verification of an individual's eligibility, and, in fact, a lot of those questioned costs wash out as being documented eligible costs.

And the actual recovered amount usually washes down to something considerably less than what's questioned because we are able to verify that the person was in fact eligible.

The new CETA law requires something also that was not the case in 1977, when what you're talking about was the case. And that is that every prime sponsor have a system for verifying individual eligibility and that the Department of Labor monitors that system. We expect that to be a very cost-effective mechanism and a very useful mechanism in making good use of the Department of Labor's staff time. And we can check the operation of the system rather than by individual manual checking of documents.

PERSONS EMPLOYED FROM FEDERAL FUNDS

Chairman MAGNUSON. It doesn't matter how many people you have employed?

Ms. GOLDING. In the——

Mr. GREEN. In ETA there are roughly 3,700.

Chairman MAGNUSON. 3,700, only?

Mr. GREEN. Yes, sir.

Chairman MAGNUSON. How many in your whole Department?

Mr. GREEN. In the entire department there are close to 20,000 people.

Chairman MAGNUSON. How many people do we pay for out of the Federal till?

Ms. GOLDING. It would be in excess of 1 million.

Chairman MAGNUSON. How much?

Ms. GOLDING. Enrollees, title II A, B, and C, is that what you're asking?

Chairman MAGNUSON. I am asking here: How many people do you pay out of the Federal till?

Mr. HEWITT. Talking about enrollees?

Chairman MAGNUSON. Everything. Because if we include everything——

Mr. GREEN. It would be close to 1 million people.

Chairman MAGNUSON. Over 1 million people come out of the Federal till.

OVERRULED AUDIT REPORTS

What's the rationale for the Labor auditors being overruled 83 percent of the time, as reported by GAO?

Mr. GREEN. If additional material and backup data is subsequently found to support the prime sponsor, then the audit reports are overruled.

Chairman MAGNUSON. Is that bad, or what? People giving away your store.

Mr. GREEN. Well, I think the new legislation has improved tremendously the recordkeeping that the prime sponsors are required to have and that in the past this has been an adequate measure, I would agree with you, sir.

Chairman MAGNUSON. You're not doing very well compared to other departments. There are some overrulings.

NUMBER OF AUDITORS

Well, how many people are in the audit department now?

Mr. GREEN. In the Office of the Inspector General, there are about 260 and in the Employment and Training Administration, with specific responsibility for the compliance activity, there are 43.

Mr. FURMAN. The total Inspector General's Office is around 260 now.

Chairman MANGUSON. The CETA audits are performed by private accounting firms?

Ms. GOLDING. Yes, sir.

Chairman MAGNUSON. Paid for by the sponsor of the CETA funds?

Ms. GOLDING. No, they are not. We pay for a number of audits done by private accounting firms under contract with the Department of Labor using CETA title III funds. For that purpose we used about $5½ million in 1978. We're using about $8 million in 1979, and we're intending to use between $10 and $11 million in 1980. Those are Department of Labor contracted-for audits over and above the audits that our own staff can do, and over and above the audits that every prime sponsor is required to do of its own books.

AUDIT OF PRIME SPONSORS

Chairman MAGNUSON. My figures are that you have 459 prime sponsors. How many of them have been completely audited?

Mr. GREEN. Seventy percent of those have been completed.

Chairman MAGNUSON. They've been audited by their own accountants?

Ms. GOLDING. By our accountants. This is over and above the audit that requires them to purchase audits of their own. For instance, if it's the State of California, they have their own State auditor that can perform audits for prime sponsor activities.

Chairman MAGNUSON. With all the reported cases of fraud and abuse, there is only $1.5 million so far?

Ms. GOLDING. $6.5 million has been recovered.

Chairman MAGNUSON. $6.5 million, of all the cases, that's your total?

Ms. GOLDING. Of fraud and abuse cases, yes.

Chairman MAGNUSON. If I estimate what you will cover next year——

Mr. GREEN. We don't have an estimate.

TERMINATION OF PRIME SPONSORS

Chairman MAGNUSON. Taking away control of CETA from local public sponsors?

Mr. GREEN. Yes, sir. We've terminated 4 prime sponsors; 4 out of about 450, I guess. St. Louis, Mo.

Senator EAGLETON. That's Illinois. [Laughter.]

Mr. GREEN. I'd like to correct my previous remark of four sponsors. The East St. Louis, Ill., sponsor is the only one terminated. I had included in my count two prime sponsors who had occasion to terminate subgrantees because of program abuse. Those were: State of Alaska, Department of Community and Regional Affairs who terminated the subgrantee—Upper Tavana Regional Council on Alcoholism; city of Sunnyvale, Calif., Department of Employment Development, who terminated the subgrantee—KOAM Economics Development, Inc. In addition, the Alameda County Training and Employment Board, California, did not refund the subgrantee Goodwill Industries of the Greater East, Inc.

Senator EAGLETON. Sunnyvale?

Mr. GREEN. It's a prime sponsor, yes, sir.

Senator EAGLETON. In California.

Mr. GREEN. And there are four other subgrantees that we have terminated at this time: Orleans County Council of Social Agencies, subgrantee of the Vermont Comprehensive Employment and Training Office; National Committee for Furtherance of Jewish Education, subgrantee of the city of New York Department of Employment; Twelfth Night Repertory Co., Inc., a subgrantee of the San Diego Regional Employment and Training Consortium; and SER, Jobs for Progress, Inc., a subgrantee of the Inland Manpower Association, in California.

Senator EAGLETON. I would like a summary—don't inundate me with a thousand pages—but a summary of what the conditions were that led up to the termination of that one prime sponsor, as well as the one-half dozen, or whatever it was that you just ticked off, subcontractors.

Mr. GREEN. Yes, sir.

[The information follows:]

PRIME SPONSOR/SUBGRANTEE TERMINATIONS

The conditions that led to the termination of the city of East St. Louis, Illinois are as follows:

Background: East St. Louis was an "Exceptional Circumstance" prime sponsor because it did not meet the population requirements in the legislation for prime sponsorship. Therefore, it was given a grant at the discretion of the Secretary of Labor.

Findings: East St. Louis failed to demonstrate that it had the "capability for adequately carrying out programs under CETA" and that it could "carry out such programs and services as effectively as the State" as required in the CETA Act. Specific violations included:

(1) Political patronage in the PSE program;

(2) Poor internal controls and a fiscal system which could not adequately safeguard Federal funds;

(3) Failure to comply to Regional Office Directives;

(4) Failure to comply with the requirement that PSE Job Orders be advertised and submitted to the State Employment Service;

(5) Nepotism in the PSE program.

The CETA program in East St. Louis is now operated by St. Clair County, Illinois, the prime sponsor within whose jurisdiction East St. Louis resides.

Senator EAGLETON. And who is functioning, or what agency, or what is being done, in those areas?

Mr. GREEN. To perform the services? We will provide that for the record.

[The information follows:]

Conditions Leading to Termination or Nonrefunding of Subgrantees/ Subgrantee Replacements

Prime Sponsor - State of Alaska, Department of Community and Regional Affairs.

Terminated Subgrantee - Upper Tavana Regional Council on Alcoholism.

Conditions leading to termination:

Audit findings disclosed: 1) CETA funds were misappropriated and co-mingled; 2) administrative costs were underreported; 3) time and attendance records were missing as support of wages; 4) overreimbursement of subcontractors; 5) administrative costs were inadequately documented; 6) reimbursement claimed for fringe benefits not paid for PSE participants, and 7) wages claimed exceeded the maximum allowable scale.

New subgrantee currently operating program is the United Crow Band.

Prime Sponsor - City of Sunnyvale, California

Terminated Subgrantee - KOAM Economic Development, Inc.

Conditions leading to termination:

KOAM failed to comply with the provision of the subagreement calling for the preparation of a community index of social services for aliens. CETA participants were not engaged in the work called for in the proposal and KOAM was reimbursed for supervisory costs which were funded by Santa Clara Valley Board. Because of noncompliance, the prime terminated the subagreement.

A new subgrantee has not been disignated.

Prime Sponsor - Alameda County Training and Employment Board, California.

Nonrefunded Subgrantee - Goodwill Industries of the Greater East Bay, Inc.

Conditions leading to nonrefunding:

A staff member of the prime reviewed the records of the subgrantee and found three ineligible participants and five whose residency was in question. The prime sponsor demanded repayment of costs of the three ineligibles and proof of residency of the other five participants.

The prime sponsor is in the process of collecting $16,000 for the ineligible enrollees and has not refunded the subcontract.

Prime Sponsor - Vermont Comprehensive Employment and Training Office, Montpelier, Vermont.

Subgrantee - Orleans County Council of Social Agencies

Conditions leading to nonrefunding:

Audit findings, newspaper articles and information provided by the FBI indicated the program to be mismanaged, poor financial and programmatic accountability, ineligible participants, program income was not being returned to the grant nor properly accounted for, CETA goals and intents routinely disregarded, property, goods and services produced with CETA funds were misplaced or misused, instructions and requirements of the prime sponsor misplaced or disregarded, and the imminent prospect of Grand Jury action. The Vermont State Police made an investigation of the subgrantee as well as the FBI. Information available from the audit and the FBI's report were the primary basis for the Regional Office demanding that the prime sponsor terminate the subagreement.

The prime sponsor created a subdivision within their own organization called Northeast Vermont Development Association to operate the program.

Prime Sponsor - City of New York, Department of Employment

Terminated Subgrantee - National Committee for Furtherance of Jewish Education.

Conditions leading to termination:

The son and daughter of the Executive Vice President of the subgrantee were employed in administrative positions in the organization in violation of the nepotism clause. The prime sponsor thereupon terminated the subagreement.

The prime terminated the subagreement on 2/26/79, and reassigned the runaway Youth Program to the Mayor's Midtown Enforcement Project. The other two subs were run by NCFJE with two prime sponsor staff persons overseeing the program's operations. Costs disallowed for the son and daughter of the Executive President were repaid to the prime.

Prime Sponsor - San Diego Regional Employment and Training Consortium

Terminated Subgrantee - Twelfth Night Reportory Co., Inc.

Conditions leading to termination:

The employment agency's bookkeeper learned that CETA funds were being transferred to the agency's Los Angeles office. Subsequently, five CETA participants' paychecks were returned from the bank due to insufficient funds. The bookkeeper notified the prime. The prime suspended the subagreement on 2/28/78. The prime determined the sub had co-mingled CETA funds with non-profit funds. Also, no meaningful accounting records had been maintained. The prime conducted a full audit and determined $10,000 could not be accounted for as allowable disbursements. On June 12, 1978, the contract was terminated and participants were transferred to another subgrantee.

The program is currently operated by the new subgrantee, California Theatre.

Prime Sponsor - Inland Manpower Association, Colton, California

Terminated Subgrantee - SER, Jobs for Progress, Inc.

Conditions leading to termination:

The sub was determined to be in noncompliance with prime sponsor assurances on program operations, maintenance of records, books, accounts, and other documents and inadequate administration and accounting controls. Based on these reasons, the subagreements were terminated.

Court action has been instituted by the prime sponsor to recover subgrantee costs. A new subgrantee has not been designated.

Chairman MAGNUSON. I will ask a question later on, but I will now turn the questioning over to Senator Chiles.

SUMMER YOUTH EMPLOYMENT PROGRAM

Senator CHILES. Thank you, Mr. Chairman. I want to start out by entering into the record the report which GAO has just released today, which shows there is a large amount of program abuse in the summer youth employment program. The youth are being paid and not assigned any useful work.

Chairman MAGNUSON. We are on the summer employment program, not related to CETA.

Senator CHILES. It's now merged into CETA under a new act.

Chairman MAGNUSON. It's not a separate part of CETA?

Senator CHILES. That's right. The report will set the context for us to examine the Department of Labor's efforts to deal with fraud and abuse in the entire CETA program.

[The report follows:]

REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

To the Chairman and
Ranking Minority Member
Committee on the Budget
United States Senate

Pursuant to your December 22, 1977, request and later meetings with your office, we are reporting on the Department of Labor's Summer Program for Economically Disadvantaged Youth. This report discusses targeting to disadvantaged areas and groups and the relationship of the summer youth employment activities to real work.

To meet the reporting deadline established by your office, we requested that Department of Labor officials meet with us to discuss a draft of this report. The Department's view was that a position regarding the report could not be developed in the very short time frame allowed. As a result, formal Labor Department comments were not considered in the preparation of this report. At the conclusion of our fieldwork, however, we did meet with officials of the Labor regional offices and prime sponsors involved; their views were considered in the preparation of the report.

As arranged with your office, we are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Labor; and other interested parties. Copies will also be available to others on request.

Elmer B. Staats

Comptroller General
of the United States

D I G E S T

The Department of Labor's Summer Program for Economically Disadvantaged Youth has an admirable objective to provide youths meaningful work tasks and training to develop their skills and enhance their future employability. But, to be an effective tool to combat the high unemployment rate among disadvantaged youths, particularly inner-city minorities, the program must maintain congressional and public confidence that it is being carried out effectively and as economically as possible.

Unfortunately, the Department of Labor's efforts to assure that State and local governments were operating quality programs were not very successful at the sites GAO visited. As a result, the future employability of many of the most needy youths was not improved. Poor administration by the Department and by local program operators prevented many youths, mostly at urban locations, from being exposed to environments that resembled the real world of work, where there is enough useful work to be done and good work habits are fostered. The program's purpose is defeated when youths are paid for little or no work or for playing games or when they are paid even though they were late or absent. Poor work habits that are learned or reinforced will offset any benefits received.

There were also problems in targeting program funds to areas and groups. Allocations were based on the desire to maintain prior year enrollment levels rather than on the eligible populations' needs and the quality of past programs.

GAO has previously reported on problems in the summer youth program and its predecessor, the Neighborhood Youth Corps.

The Comprehensive Employment and Training Act and implementing Federal regulations authorize Labor to make grants to prime sponsors--generally State and local governments--to provide economically disadvantaged 14- to 21-years-olds with meaningful work and training to develop their skills and enhance their future employability. Labor provides technical assistance, approves the sponsors' plans, and monitors their compliance with legal and regulatory requirements.

The summer youth program is the largest of several youth employment and training programs. About $755 million was obligated to enroll approximately 1 million youths in the 1978 program. The program has grown substantially since 1975, when about $391 million was obligated to serve 716,200 enrollees.

GAO's evaluation included fieldwork at seven sponsor locations (four urban, three rural), where in 1978 about $48 million was available to serve more than 76,000 youths. At these locations, GAO visited 230 worksites, to which 6,257 enrollees were assigned. These included 173 urban sites with 5,898 enrollees and 57 rural sites with 359 enrollees.

ENROLLEES OBTAIN LITTLE MEANINGFUL WORK EXPERIENCE

Labor has provided criteria as to what constitutes "meaningful work experience." However, GAO could not find sufficient detailed guidance to implement the criteria and, therefore, found it necessary to spell out sufficiently detailed guidance to make it possible to evaluate the effectiveness of the program and to determine whether Labor's criteria had been met.

In assessing the quality of worksite experiences designed to introduce enrollees to the world of work, GAO considered the usefulness of the work, the amount of work, and the quality of supervision, which included keeping enrollees busy and fostering good work habits. (See pp. 6 to 10.)

Half of the worksites visited (115 of 230) met GAO's minimum standards for providing a meaningful work experience. This, in GAO's view, clearly establishes the ability to achieve, and the reasonableness of, these standards. Unfortunately, only 30 percent of the enrollees were assigned to these sites. The problem was more pronounced at urban sites where GAO observed--at the time of its onsite visits--that almost three of every four enrollees were exposed to a worksite where good work habits were not learned or reinforced, or realistic ideas on expectations in the real world of work were not fostered. In contrast, about four out of every five enrollees at rural sites were exposed to conditions which provided a meaningful work experience. (See pp. 11 to 20.)

GAO believes there were two key reasons why the rural sites provided better work experience than the urban sites. Rural sites were smaller and, thus, more manageable than the urban sites. Also, from GAO's discussions with supervisors, it appeared that rural supervisors had better experiences, general understandings of the program's objectives, and awareness of their responsibilities than the urban supervisors.

Most urban enrollees were at sites where there was little meaningful work experience because enrollees were not provided enough useful work or not given supervision that fostered good work habits. Both conditions were present at some sites. These factors were considered separately in identifying minimally acceptable sites. (See pp. 11 and 12.)

GAO believes that useful work should provide visible, continued, improved, or new services or goods benefiting the community or employer. Training activities should be useful in enhancing enrollees' future employability. In addition, enrollees should be occupied for most of the scheduled workday. These conditions are necessary to present a realistic impression of the world of work, where employers expect a day's work for a day's pay. (See pp. 7 to 10.)

On the days of GAO's visits, only 43 percent of the enrollees were assigned at sites that provided enough useful work. Rural sites usually kept enrollees busy during working hours. Enrollees at urban sites, however, were observed on those days to be frequently idle or participating in recreational activities. (See pp. 12 to 17.)

In evaluating whether enrollees were being given the opportunity to develop good work habits, GAO considered (1) whether working hours were enforced (and procedures were used to prevent payment for absences), (2) enrollees' behavior was controlled, and (3) whether supervisors, through action or discussion, impressed upon enrollees the need for good work habits, including proper attitude, behavior, appearance, and motivation. (See p. 10.)

GAO's review showed, at the four urban sponsors visited, that enrollees assigned at sites where the opportunity to form good work habits was being provided ranged from 22 percent in Newark to 66 percent in Los Angeles. Rural sites visited had a much higher range (from 65 to 92 percent) satisfying this standard. Problems at the urban sites most frequently related to poor supervision or too many enrollees being assigned for the work at hand. (See pp. 17 to 20.)

These problems resulted basically from weak management by Labor and the sponsors in assuring that worksites provided meaningful work.

Although Labor, in the summer program regulations, stressed improved program quality, especially in how sponsors selected and monitored worksites so that meaningful work is provided, its efforts to assure that sponsors fulfilled the regulatory intent were limited and ineffective. (See p. 20.)

Some sponsors' selection of subgrantees had shortcomings that hampered the development of good worksites. In addition, most sponsors' monitoring practices did not assure that worksites were providing meaningful work experience. Some sponsors did not monitor all worksites; some practices did not emphasize the quality of the work experience; and some problems, when identified, were not corrected. (See pp. 21 to 25.)

FUNDING TO SPONSORS IS NOT CLOSELY LINKED TO NEED AND MAY AFFECT PROGRAM QUALITY

The manner in which Labor allocated program funds to sponsors did not directly relate to the eligible populations' needs or consider sponsors' past performance in meeting program goals. (See p. 26.)

In the absence of a legislatively mandated method, Labor regulations established a two-step funding process for the summer youth program. In the first step, an amount is computed using a formula that considers indicators of economic need. If the formula computation does not allocate enough funds for a sponsor to provide the same number of jobs as in the prior year's program, a second step is used, in which the allocation is increased to an amount necessary to sustain the prior year's enrollment level. Under this method, some sponsors received more funds than they would have gotten under the allocation formula, while many sponsors received less. This funding procedure generally favored urban sponsors. (See pp. 26 to 30.)

The funding methodology, in basically the same form, is now incorporated in legislation as a result of the Congress including the identical funding procedures of the administration's bill in the Comprehensive Employment and Training Act Amendments of 1978. Thus, remedying inequities in the funding process will require legislative action. (See p. 28.)

The method of allocating summer youth program funds is similar to that used in comprehensive employment and training services programs, with one notable exception. The funding procedures for the latter program permit reducing allocations by as much as 10 percent from the prior year's level based on a decline in relative need. (See p. 29.)

Labor's allocation of a relatively greater share of funds to urban areas may have affected program quality in those areas. The sites visited at two urban sponsors, which were funded at levels substantially higher than the amount the formula would have allocated, provided a lower percentage of enrollees with a meaningful work experience than did most of the other sponsors. (See pp. 30 and 31.)

THE PROGRAM MAY NOT BE SERVING THOSE MOST IN NEED

Although regulations require sponsors to serve economically disadvantaged youths most in need of program services, sponsors' efforts to identify and recruit such youths were limited. (See ch. 4.)

At the locations visited, variations existed in target groups or significant segments to be served identified in the sponsors' plans to receive services. These segments were generally identified on the basis of the prior year's program experience rather than on particular employment problems or services needed.

Most of the sponsors' recruiting efforts were directed at the general student population, although regulations required outreach emphasis on school dropouts, those not likely to return to school without program assistance, and students facing significant employment barriers.

Virtually all the participants served by the seven sponsors were students. Participation

in the program by nonstudents, especially dropouts, was limited. Representation by dropouts in the urban programs was less than 4 percent, generally lower than the representation of dropouts in the rural programs.

In addition, from about 50 to 70 percent of the enrollees at three sponsors (including two urban sponsors) were under 16 years old and seemingly less in need of employment services than older youths. (See pp. 34 to 36.)

Sponsors' efforts to assure that only eligible youths participated varied and in some instances were limited. (See pp. 39 to 42.)

RECOMMENDATIONS TO THE CONGRESS

There are inevitable problems associated with effective administration of a program that has grown as rapidly as the summer youth program. Consequently, GAO recommends that the Congress, before considering any expansion of the program, assure itself that the Department of Labor has taken effective corrective actions to improve the quality of the program.

GAO recognizes that inflation and minimum wage rates increase program costs over time. However, based on the observations of GAO's current study, the program as presently operated is generally not giving many youths the type of work experience they need to increase their future employability. This is especially true in urban areas. GAO believes the fiscal year 1978 funding levels are more than sufficient to continue program operations until Labor (1) provides specific guidance to sponsors on how to assess the quality of worksite experience, (2) establishes an effective means of determining whether sponsors are providing meaningful work to enrollees and meeting other program requirements, and (3) develops and proposes to the Congress funding procedures that more adequately consider the needs of the eligible youths and allocate funds to sponsors based on demonstrated success in providing meaningful work.

In the interim, the Congress should consider amending the Comprehensive Employment and Training Act provision for allocating summer youth funds to provide funding procedures similar to those in the act for comprehensive employment and training services programs. The latter funding procedures provide for gradually adjusting annual allocations to bring them closer to formula amounts. (See pp. 45 and 46.)

RECOMMENDATIONS TO THE SECRETARY OF LABOR

GAO recommends that the Secretary of Labor

--provide sponsors with specific guidance on how to assess the quality of worksite experiences, including developing models of work settings that provide the opportunity to develop good work habits and identifying and prohibiting activities that bear no relationship to real work;

--take effective action (1) to improve Labor regional office monitoring of the program to assure that sponsors develop and operate programs that provide meaningful work and (2) to withhold funds from sponsors that have not developed programs meeting requirements;

--develop and propose to the Congress funding procedures that more equitably distribute program funds to the eligible population while considering sponsors' demonstrated success in summer youth programs;

--take effective action to assure that sponsors recruit and increase the participation of out-of-school and other youths most in need of program employment and training services; and

--require sponsors to obtain from applicants adequate evidence of eligibility and to verify eligibility. (See pp. 46 and 47.)

AGENCY COMMENTS

Because of the need for early issuance of this report, GAO did not obtain or consider Labor Department comments on its findings, conclusions, or recommendations. Upon completing its fieldwork, however, GAO did meet with officials of the Labor regional offices and sponsors involved. Their views were considered in the preparation of this report.

CHAPTER 1

INTRODUCTION

In a December 22, 1977, letter, the Chairman and the Ranking Minority Member, Senate Committee on the Budget, asked us to determine whether the Department of Labor's Summer Program for Economically Disadvantaged Youth (SPEDY) is providing useful work to youths. Specifically, we were asked to:

--Address the adequacy of enrollee recruiting and selection procedures, including how well these efforts are targeted to disadvantaged areas and groups, and their relationship to year-round training and employment programs authorized by the Comprehensive Employment and Training Act of 1973, as amended (CETA) (29 U.S.C. 801).

--Determine what the enrollees are doing, in terms of usefulness of the work experience, adequacy of supervision, extent of on-the-job training, and usefulness of the work to employers and communities.

We later agreed with the Chairman's office that our evaluation would include a mixture of urban and rural communities, with fieldwork to be done at two large cities, two-medium size cities, and three rural areas. A nationwide sampling was not considered feasible because of time frame and resource constraints. The scope of our evaluation is detailed in chapter 6.

THE SUMMER YOUTH PROGRAM

Before CETA was enacted in 1973, the summer youth program was operated as one component of the Neighborhood Youth Corps program, authorized by the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701). At that time the Neighborhood Youth Corps summer program was primarily intended to help high school age low-income youths remain in school by providing them with summer employment. Program responsibility was transferred from the Office of Economic Opportunity to the Department of Labor in 1964.

After CETA was enacted, the name Neighborhood Youth Corps was dropped and the summer youth program became known as SPEDY. Its primary purpose became one of providing work experience to economically disadvantaged youths during the summer to enhance their future employability. These part-time summer jobs, which generally pay the minimum wage, are with schools, hospitals, libraries, community service agencies, and other public and private nonprofit agencies and groups.

The program is directed at economically disadvantaged youths, both in and out of school, between 14 and 21 years of age. It is aimed at all segments of the disadvantaged population, but especially at school dropouts, potential dropouts, and in-school youths likely to encounter employment barriers because of their work attitude, aptitude, and social adjustment.

SPEDY has the largest enrollment of the several youth employment and training programs designed to combat the high unemployment rate among youths. Youths in general have an unemployment rate more than twice that of the general labor force. The minority youth unemployment rate has been running about 40 percent, with the rate for inner-city youths approaching 50 percent. About 1 million youths participated in the 1978 summer youth employment program. The Youth Employment and Demonstration Projects Act of 1977 authorized four other programs which, collectively, served an estimated 390,000 youths in fiscal year 1978.

Labor issues regulations specifically for SPEDY; these we refer to as SPEDY regulations. Labor also issues regulations governing many CETA programs, including SPEDY; we refer to these as CETA regulations.

FUNDING

Labor's Employment and Training Administration makes CETA grants to about 450 prime sponsors--generally State and local governments. Through its 10 regional offices, Labor provides technical assistance, approves plans, and monitors prime sponsors' compliance with CETA provisions.

The program has grown steadily since 1975, the first year of SPEDY operations under CETA. In 1975 about $391 million was obligated in serving 716,200 youths, whereas in 1978 about $755 million was obligated to employ approximately 1 million youths. Urban prime sponsors generally receive a large share of the funds. For example, the 50 largest U.S. cities were members of prime sponsors that received almost 30 percent of SPEDY funds in 1978. Our evaluation included fieldwork at seven sponsor locations, where about $48 million had been available in 1978 to serve more than 76,000 youths.

To obtain funding, a prime sponsor is required by SPEDY regulations to submit an annual plan to Labor for approval. This plan must, among other things, describe procedures to be used to supervise service providers (including criteria for determining that a program has demonstrated effectiveness) and arrangements to ensure that employment and training services will be provided to those who most need them.

PRIOR GAO REPORTS

We have described this program's operational and managerial weaknesses in other reports. In our report to Congresswoman Elizabeth Holtzman, "Poor Administration of the 1977 Summer Program for Economically Disadvantaged Youth in New York City" (HRD-78-123, July 26, 1978), we discussed serious problems in planning, registration of youths, monitoring, coordination, and staffing. Youths were not given enough work and were certified present at jobs when they were absent.

A report to Congressman Fred Richmond, "Payment Problems in the Summer Youth Employment Program in New York City" (HRD-77-18, Feb. 2, 1977), pointed out that some enrollees were not paid at all, were paid incorrectly, or were paid late.

A report to Congressman Parren J. Mitchell, "Information on the Summer Youth Employment Program" (HRD-77-121, June 27, 1977), summarized our reports on this program as far back as its predecessor, the Neighborhood Youth Corps. These reports identified such problems as lack of meaningful work, inadequate monitoring by Labor, enrollees being paid for more time than they actually worked, and lack of a clear definition of the program's purposes and objectives.

LABOR STUDIES OF THE 1978 SPEDY

Because it had little idea of the quality of the program's work experience or its impact on participants, Labor contracted for several studies and conducted in-house studies in addition to its routine monitoring of the 1978 SPEDY. Labor planned to use the information generated in drawing up regulations and guidelines for 1979. In these studies:

--A contractor's staff interviewed about 300 youths at 96 worksites of 9 prime sponsors about their work. Information was sought on hours and wages, supervision, program monitoring, adequacy of planning, and quality of worksites.

--As part of an ongoing effort to develop case studies of youth programs, a contractor analyzed the extent to which SPEDY was integrated with year-round youth programs. This analysis involved a series of case studies on 37 prime sponsors.

--Labor review teams examined SPEDY programs of 11 prime sponsors. The first visits, made in May, concentrated on early planning, integration with other programs, and employability development. The second visits, made later in the summer, focused on operations.

--Labor selected five model prime sponsor SPEDY programs from those recommended by regional offices as exemplary in the summer of 1977. Five prime sponsors documented 1978 activities according to a uniform format. Monographs were collected in a single technical assistance package for distribution to all prime sponsors to aid 1979 planning. The effort also included developing a film of the model sponsors' operations. We were told that 500 copies of this film are being sent out to assist in developing 1979 program operations.

--A contractor studied selected worksites in New York City's 1978 summer program. The study was done to identify the procedures and policies of the New York City program and to recommend actions to improve operations.

--A contractor studied a national sample of 1978 SPEDY grant applications and end-of-summer reports by 51 prime sponsors to determine the frequency of certain practices and program approaches and to review the relationship between prime sponsor plans and requirements of Labor's grant application package.

A Labor official told us that, as of December 31, 1978, all of the fieldwork for the studies was complete. However, reports on the studies were, for the most part, still pre-

liminary. As appropriate, we have included these studies' tentative findings in our report. Those tentatives findings are similar to many of our findings.

CHAPTER 2

MANY YOUTHS ARE NOT BEING PREPARED FOR REAL JOB SITUATIONS

The Department of Labor's Summer Program for Economically Disadvantaged Youth has an admirable objective to provide youths meaningful work tasks and training to develop their skills and enhance their future employability.

However, the Department of Labor's efforts to assure that State and local governments were operating quality programs were not very successful. As a result, the future employability of many of the most needy youths was not improved. Poor administration by the Department and by local program operators prevented many youths, mostly at urban locations, from being exposed to environments that resembled the real world of work, where there is enough useful work and good work habits are fostered.

The program's purpose is defeated when youths are paid for doing little or no work or for playing games or when they are paid even though they were late or absent. Poor work habits that are learned or reinforced will offset any benefits received.

Only about one out of every four youths enrolled at urban sites we visited was exposed to an environment that bore an acceptable resemblance to the real world of work. In rural areas about 80 percent of the youths were at acceptable sites. Many of the urban enrollees did not work most of the day--they spent much of their time in recreation, questionable work activities, or idleness. Many were at sites where supervisors did not enforce work hours or develop other critical work habits relating to behavior, attitude, motivation, and appearance. Consequently, these enrollees experienced little of what will be required when they compete in the job market.

We believe there were two key reasons why the rural sites we visited provided better work experience than the urban sites we visited. Rural sites were smaller and, thus, more manageable than the urban sites. Also, from our discussions with supervisors, it appeared that rural supervisors had better experiences, general understandings of the program's objectives, and awareness of their responsibilities than the urban supervisors.

Poor administration by the Department of Labor, the sponsors, and worksite supervisors led to most of the problems we observed. Worksite problems, such as poor supervision, too many enrollees being assigned for the work at hand, equipment shortages, and planned work not being useful, were largely caused by sponsors' ineffectiveness in selecting and monitoring worksites. Although worksite selection and monitoring were emphasized in SPEDY regulations, Labor's involvement with the sponsors' programs was too limited to assure that sponsor worksite selection and monitoring were effective.

We and others criticized SPEDY's predecessor, the Neighborhood Youth Corps, as being basically an income maintenance program with little useful activity. We criticized earlier SPEDY programs for the same reason. Labor acknowledged that earlier programs had been administered with an income maintenance philosophy. Although Labor stressed improved quality in the 1978 SPEDY, much needs to be done to assure that meaningful work and training are provided--especially in urban areas.

WHAT IS WORK EXPERIENCE AND WHAT SHOULD IT ACCOMPLISH?

According to SPEDY regulations, the summer youth program was to give youths meaningful work tasks and training to develop their skills and enhance their future employability. Short-term goals included providing structured, well-supervised work to improve work habits. In addition to work experience, sponsors could provide other activities, such as occupational and classroom training. According to CETA regulations, occupational training must be for occupations in which a skill shortage exists and in which there is a reasonable expectation of employment. Classroom training must be related to specific job skills and may include remedial training to upgrade basic skills.

As defined in CETA regulations, work experience is a short-term and/or part-time work assignment designed to enhance the employability of individuals who either have never worked or have not worked in a long time. It is designed to increase employability by providing experience on a job, an opportunity to develop occupational skills and good work habits, and an opportunity to develop specific occupational goals through exposure to various occupations. A CETA program monograph "Work Experience Perspectives: CETA Program Models" more appropriately describes work experience to be

> "* * * manpower activities that expose enrollees to simulated and actual work conditions, expectations, and job content similar to those encountered in the unsubsidized work world."

SPEDY regulations provide further identification of "meaningful work experience." The regulations require that prime sponsors, when selecting contractors and subgrantees, consider their capability to provide worthwhile work that is appropriate in terms of participants' needs and local market demands. The regulations also require sponsors to determine through monitoring that there is enough meaningful work to occupy all the youths during the hours they are at the site.

Although Labor has provided criteria as to what constitutes "meaningful work experience," we could not find sufficient detailed guidance to implement the criteria. Therefore, we found it necessary to spell out sufficiently detailed guidance to make it possible to evaluate the effectiveness of the program and to determine whether criteria established by the Labor Department have been met.

In assessing the quality of worksite experiences designed to introduce enrollees to the world of work, we considered

usefulness of the work, the amount of work, and the quality of supervision, including keeping enrollees busy and fostering good work habits.

To determine what SPEDY enrollees were doing and whether worksites were providing meaningful work or training, we visited 230 selected SPEDY worksites of the sponsors in our review. These included 173 urban sites with 5,898 enrollees and 57 rural sites with 359 enrollees. Because our coverage was limited, our statistics should not be applied to the entire program. Nevertheless, we believe our findings are sufficiently serious to indicate the need for improvements in program administration.

The specific criteria we used in making our determination are discussed below.

Activities need to be useful to be meaningful

In evaluating the meaningfulness of work and training activities, we determined whether they were useful in terms of enhancing enrollees' future employability and in providing a visible benefit to the community or worksite employer. At least some activities at most worksites were useful in these respects.

Work experience activities, according to CETA regulations, should increase employability by giving individuals experience on a job and an opportunity to develop occupational skills and good work habits. We believe that useful work activity should provide visible, continued, improved, or new services or goods benefiting the community or employer. In this way, enrollees are introduced to a realistic work setting, where employers expect some form of benefit in return for pay. Benefits to the community and worksite employers are readily apparent in more traditional jobs, such as clerical (provided at 36 percent of the sites reviewed) and maintenance (provided at 55 percent of the sites reviewed). For example:

--A government agency used four enrollees for typing, filing, and other clerical duties.

--A municipal highway department involved six enrollees in road, building, parks, and vehicle maintenance.

--A hospital employed 48 enrollees in a variety of capacities, including lab technicians and orderlies.

--A school used 13 enrollees to maintain the grounds.

The community also benefits from less traditional work activities, such as day care and community and social services. For example:

--A day care center used 15 enrollees to supervise about 90 children. The enrollees directed the children in arts and crafts, music, and recreation and also supervised their lunch periods.

--Some of the 37 enrollees at a community service center assisted senior citizens in getting to and from the center's health clinic and in shopping. The other

enrollees worked as day care aides, health center aides, and food distributors.

We viewed arts, music, and drama activities as useful because they involved training and the public generally benefited from performances by the enrollees. About 18 percent of the sites reviewed offered such activities. For example:

--Thirty-four youths continued their music education as members of a band that performed in public.

--A dance company instructed 12 enrollees in African dance and provided occasional community performances.

About one-third of the sites provided some training to enrollees. Although training does not generally provide a direct, visible benefit to the community, we considered training useful if it provided individuals with technical skills or upgraded basic skills, such as in English and math. These features are provided for in CETA regulations. In addition, the regulations specify that occupational training be designed for occupations in which skill shortages exist and in which there is a reasonable expectation of employment. We observed training we considered useful at several sites. For example:

--Seventeen youths were enrolled at an auto mechanic/body repair school, in which classroom training was complemented by practical experience.

--Eight enrollees were trained in carpentry and woodworking by a high school industrial arts instructor. The summer project was to build bookcases for the school system.

--Six of 25 enrollees at a community service worksite were found by their supervisor to have deficiencies in basic skills that limited their job performance. These enrollees attended site-sponsored remedial math and English courses part of the time.

Some activities, in our opinion, could not be classified as useful work or training. For example, recreational activities involving only enrollees as participants occurred at least some of the time at about 27 percent of the sites. For example:

--At a community agency about half the scheduled activity for most of the 60 enrollees involved recreation, including volleyball, kickball, and basketball.

--All activities for 67 enrollees assigned to a park site were recreational, including baseball, basketball, and swimming.

Other activities that we considered to be providing little or no useful work or training included the following:

--Most activities for 125 enrollees at a community agency involved physical fitness, yoga, and martial arts classes.

--The primary activities for eight enrollees at a community agency site were cultural field trips, ethnic history classes, and sports.

We do not object to providing opportunities for recreation and culture to youths, particularly in conjunction with work assignments. However, the proportion of time spent in such activities in these instances--from about half to all--are in our view not in keeping with achieving the objectives of the program.

Enough work to keep busy--
a real world expectation

For work or training to be meaningful, the activity should not only be useful but also occupy enrollees for most of the scheduled workday. This is necessary to present a realistic impression of the world of work, where employers expect a day's work for a day's pay. For our analysis, we defined "enough useful activity" as being engaged in useful work and/or training activities at least 75 percent of the scheduled worktime. In other words, we expected that enrollees work at least 3 out of 4 hours on the job. Scheduled worktime excluded reasonable allowances for lunch and breaks.

Good work habits--
a basic job need

Good work habits are prerequisites for getting and keeping a job. A CETA program model monograph noted that learning to work is as critical as learning a skill. Developing good work habits, such as getting to work on time, reporting regularly for work, working cooperatively with others, and accepting supervision and responsibility, are especially important in SPEDY. Providing structured, well-supervised work to improve work habits was one of SPEDY's short-term goals. Work habits are developed at the worksite, and development largely depends on how enrollees are supervised. Of enrollees we spoke to, most were still in school and about one-third said they had never had a job before.

In evaluating whether enrollees were being given the opportunity to develop good work habits, we considered whether working hours were enforced (and attendance procedures existed to prevent payment for absences); whether enrollees' behavior was controlled; and whether the supervisor, through action or discussion, impressed upon enrollees the need for good work habits. This third factor included attitude, behavior, appearance, and motivation.

MANY ENROLLEES WERE PROVIDED
LITTLE MEANINGFUL WORK EXPERIENCE

In the preamble to the 1978 SPEDY regulations, Labor stated that the changes made reflected "continued efforts" to improve the quality of the summer program so that youths will engage in meaningful work tasks and training which will develop their skills and enhance their future employability. However, Labor's desired improvement in the quality of SPEDY has not been achieved.

Half of the worksites visited (115 of 230) met our minimum standards for providing a meaningful work experience. This, in our view, clearly establishes the ability to achieve, and the reasonableness of, these standards. Unfortunately, only 30 percent of the enrollees were assigned to these sites. The problem was more pronounced at urban sites where we observed--at the time of our onsite visits--that almost three of every four enrollees were exposed to a worksite where good work habits were not learned or reinforced, or realistic ideas on expectations in the real world of work were not fostered. In contrast, about four out of every five enrollees at rural sites were exposed to conditions which provided a meaningful work experience.

Sites that we believed provided at least a minimally acceptable work experience provided enough useful work, developed good work habits, and had good supervision. However, they did not necessarily provide for continuous useful work. In other words, there was enough useful work, but idle time was not always minimized or constructively used. In addition to providing meaningful work experience, about half of these sites enhanced the work experience of some enrollees by providing jobs or training that developed skills.

Appendix I shows, by sponsor, the number of minimally acceptable worksites and enrollees assigned compared to all sites visited and their enrollment. This information shows that enrollees at rural sites fared better than those at urban sites. The proportion of enrollees assigned at minimally acceptable worksites at the four urban sponsors visited ranged from 8 percent in Newark to 57 percent in Los Angeles. Rural sites visited had a much higher range (from 65 to 82 percent).

Most enrollees were at sites where there was little meaningful work experience because enrollees were not provided enough useful work or not assigned with supervision that fostered good work habits. Both conditions were present at some sites. Appendixes II and III show, by sponsor, the relative number of enrollees at sites that provided enough useful work, and the opportunity to develop good work habits, respectively. These factors were considered separately in identifying minimally acceptable sites shown in appendix I. For example, a site was determined not minimally acceptable because poor work habits were fostered even if it provided enough useful work. Another site was not acceptable because, while promoting good work habits, it did not provide useful work. Other sites failed to meet either condition.

A day's work for a day's pay--
not always the case

Enrollees we observed at 148 sites, or 64 percent of the 230 sites visited, were occupied with enough useful work activities on the day of our visit. These sites, however, enrolled only 43 percent of youths assigned to all sites we visited.

Appendix II shows, by sponsor, the number of worksites providing enough useful work and their enrollment. The data show that rural sites were more effective in this regard. Only 56 percent of the urban sites provided enough work, while 89 percent of the rural sites did. These urban sites were assigned 40 percent of the total enrollment at urban

sites visited, while 89 percent of rural enrollees were at sites that had enough work.

Examples of sites providing enough useful work

At 148 sites, enrollees we observed were working at least three-quarters of the time on the day of our visit. At 120 of these sites, we observed no time that was not constructively used. Activities at these sites included the following:

--An urban high school used 21 enrollees in a print shop producing forms for the school system.

--A rural parks department employed two enrollees to maintain existing park grounds and prepare a new picnic area. We found the area to be well maintained.

--A rural hospital gave 14 enrollees practical clerical experience in bookkeeping, filing, and billing procedures.

--An urban day care center employed 12 enrollees as day care aides, supervising children's recreation activities, recordkeeping, and lunch distribution. According to the site supervisor, the center could not have operated without the enrollees.

--A rural library had three enrollees shelving returned books and performing light housekeeping duties.

Other sites, while not keeping enrollees busy all day, provided enough useful activity to keep them occupied most of the day. For example:

--Three rural enrollees were scheduled to work 7 hours a day preparing and distributing food under the Summer Nutrition Program. However, they were released when the work was completed, usually about an hour early.

--Eight enrollees were to organize and supervise youth activities at an urban playground. Although there was enough work to keep them occupied most of the workday, enrollees were observed playing basketball and checkers.

An added benefit to any meaningful work experience is skill development. About one-third of the sites provided occupational skill development to at least one of their enrollees. Some sites had organized training programs. For example, 13 enrollees at one site were participating in a welding and small engine repair training program. Some were engaged in special projects, such as lawnmower overhaul. Enrollees also visited welding and sheet metal firms.

In most cases, however, skills were developed incidentally through on-the-job experience. For example:

--An urban university employed 48 enrollees in various skill-developing clerical jobs. Two of the enrollees were also learning key punching, while two others worked as library assistants.

--At an urban community agency, 4 of 64 enrollees were developing typing skills. The others were involved in neighborhood maintenance activities.

--An urban group employed 15 of its 30 assigned youths in printing the group's newspaper. In addition to printing skills, the youths were learning artistic layout and photography. Of the other enrollees, 5 were performing clerical duties and 10 were involved in maintenance.

--A rural school used two enrollees in clerical capacities, doing such things as typing, filing, and updating student files.

Labor studies of the 1978 SPEDY at 11 prime sponsors also showed that little formal skill training was occurring. Less than 6 percent of SPEDY resources at the locations visited were used for services and activities other than work experience. Few prime sponsors were involved in institutional skill training or remedial education.

Many enrollees were not exposed to realistic impressions of the world of work

Enrollees at more than one-third of the sites we visited, representing about 57 percent of the total enrollment at all sites visited, were not engaged in enough useful activity. Less than three-fourths of enrollee worktime at these sites was spent constructively. We believe the enrollees at these sites were exposed to unrealistic work settings and were given distorted impressions of what would be expected in the real world of work. This condition was more common at urban than at rural sites visited.

The immediate causes of this problem often involved poor supervision; that is, supervisors not directing enrollees to do available work and sites being assigned more enrollees than were needed to do the work at hand. Other reasons included a lack of equipment, a failure of planned programs to materialize, and a lack of useful planned activities. Some sites experienced more than one of these problems.

Poor supervision was a factor in about 60 percent of the sites where there was little work going on. For example:

--An urban public housing project was assigned 115 enrollees to work in maintenance, food distribution, and recreation. On the date of our visit, we observed very little activity. Some enrollees signed in, then left, while others arrived up to 2 hours late, but posted an earlier time on the sign-in sheet. Later in the workday, only 20 of 108 signed-in enrollees were still present at the site. Enrollees assigned to food distribution were idle half of the 5-hour workday. Youths working as recreational aides could not be located by the supervisor. Enrollees involved in maintenance were idle, although the project's grounds obviously needed attention.

--An urban community agency's neighborhood beautification program was assigned 12 enrollees. The activities involved removing graffiti from residential and commer-

cial properties and cleaning vacant lots and residential yards. During our visit to the site, we observed much idleness. The supervisor also allowed enrollees to leave early. On the day of our visit, the 5-hour work schedule was shortened to 3 hours and 45 minutes.

At about 40 percent of the sites that lacked enough useful activity, there appeared to be too many enrollees for the work at hand. For example:

--Fifty-three youths were to supervise and distribute food to 3- to 11-year-old children. Many more enrollees were assigned than were needed to support site activities. About 50 children participated in the food and recreation programs at a small concrete school yard. The program equipment consisted of three small tables (no chairs), a volleyball, a kickball, and a jump rope. On the day of our visit (a nice day), we observed virtually no work activity--most enrollees were idle or playing games. Later that day and on another occasion, we noted similar conditions.

--An urban church was assigned 140 enrollees for child care, maintenance, and clerical activities. On the day of our visit, no children were present. Enrollees, except for those maintaining enrollee sign-in sheets, were idle or playing games.

In other cases, equipment shortages resulted in problems. For example, 43 enrollees were assigned to an urban block association to clean streets and cut grass in vacant lots. But the worksite had only two brooms and two rakes. Occasionally, equipment was borrowed from neighborhood residents. Enrollees were idle much of the time.

Activities planned by some sites did not materialize, leaving enrollees with little to do. For example, an urban program enrolled 10 youths to be trained as arts and crafts instructors at day camps. Enrollees engaged in some arts and crafts activities, but were not trained as instructors. The enrollees were either idle or playing games much of the time.

Enrollees at other sites were involved in activity that seemed useless. For example, an urban neighborhood community center was assigned 84 enrollees to serve as "police aides," but there was no coordination with or approval of the city's police department. Ten of the enrollees served as "dispatchers," while the rest were to patrol sections of the neighborhood in groups of about 10 for peacekeeping purposes. The site did not have any phones or other means for the dispatchers to communicate with the field patrols. Consequently, these enrollees were idle. The 74 enrollees in the eight patrol units were not trained, had no identification, and were not accompanied by an adult supervisor. We drove around the area but were not able to locate any of the eight "squads."

Recreation activities involving only enrollees were quite prevalent. We observed such activities at 63 of the sites visited. Sixty of these were urban sites, or about one-third of all urban sites visited. Recreation was the primary activity at 21 of the sites. For example:

--The primary activity for 51 enrollees at an urban civic group was sports. Through competitive sports, enrollees were to learn to compete at other levels. In addition to a lack of direct vocational benefit, sports equipment was limited.

--Ten enrollees were to teach disadvantaged youths to play tennis. However, the planned instruction period involved only 6 hours of the 25-hour workweek. The rest of the time, enrollees played tennis or were idle.

Some sites experienced a number of problems that limited the amount of useful work accomplished. The problems at some of these sites are described below.

--An urban sponsor assigned 236 enrollees to be instructed in African dance and music, martial arts, modeling and charm, and drama. The site, located at a park, operated 8 hours a day. When it rained, enrollees were sent home. Enrollees participated on alternating days in groups of between 95 and 236. On the day of our visit, the first 2 hours of the workday consisted of signing enrollees in--many arrived late. During this time some enrollees were idle, others played games, and some left the site. At one point only 24 of the 95 enrollees who had signed in could be located by a sponsor monitor. Some dance activities got underway 2-1/2 hours after the official starting time of the site, continuing for 1-1/2 hours before breaking for lunch. We returned to the site later in the day only to find the enrollees on a 50-minute break.

--Twenty-one youths were assigned to an urban site where the only planned activity was participation in recreation. Site activities included playing basketball and swimming. Besides lacking a useful activity, the site lacked proper supervision and equipment. As a result enrollees were idle most of the time, some were disorderly, and some wandered from the site.

--An urban theater group was assigned 44 enrollees to assist in festival presentations. On the day of our visit, some of the youths were constructively occupied. About half of them, however, were idle, listening to music or skateboarding.

Opportunities for development of good work habits--a basic job need--not always being provided

One criticism of SPEDY's predecessor, the Neighborhood Youth Corps, was that it often provided negative job experiences which defeated the developmental potential of the program by reinforcing bad work habits. This situation existed at many worksites in the 1978 SPEDY.

Of the worksites we visited, 61 percent (140 of 230) were providing the opportunity to develop good work habits. However, these sites included only 46 percent of the enrollees assigned to all sites we visited. Supervision is the key to developing good work habits. Appendix III shows, by

sponsor, the number of sites and enrollees assigned where the opportunity to develop good work habits was being provided.

Some examples of good work habit development are given below.

--At a worksite with 12 enrollees responsible for child care and supervision of a recreation program, we observed supervisors working closely with enrollees. Individual counseling sessions were scheduled twice weekly, and group sessions were scheduled weekly. One potential school dropout was receiving a counselor's attention and encouragement to stay in school. Worksite policy did not permit pay for absences.

--At a site with six enrollees, we observed apparently good rapport between the supervisor and enrollees. The supervisor was teaching the enrollees the importance of industriousness, high-quality work, cooperation, and accepting supervision.

--At a site with eight enrollees, neither late arrivals and early departures nor long lunches were tolerated.

Other worksites did not promote the development of good work habits because not all the factors we describe on page 10 of this report were present. Also, at 20 worksites with 940 enrollees assigned (15 percent of all enrollees assigned to sites visited), the development of good work habits was not being fostered because none of the factors was present.

Some worksites where the opportunity to develop good work habits was not being provided included the following:

--At one worksite the 20 enrollees reported present were not engaged in useful activity, but were playing games among themselves. The supervisor was absent for half an hour. The enrollees wandered around regardless of whether the supervisor was present. In the afternoon, when attendance was taken, the supervisor assured us that all enrollees were accounted for although we observed only 13 at that time.

--At a site with 39 enrollees where the workday began at 8:00 a.m., most enrollees arrived at 8:30 a.m. Although a supervisor said that enrollees would work until 2:30 p.m., 20 enrollees told us they never worked beyond 1:30 p.m.

--We visited one site assigned 44 enrollees where the supervisor was absent. The enrollees were sitting around or playing basketball. When we returned in the afternoon, the second shift was sitting around talking.

--At a site with 67 enrollees, time and attendance was poorly controlled. Enrollees arrived an hour late but reported the regular starting time on attendance records.

--At a site with 12 enrollees, some wandered from the site without the supervisor taking any action.

--At a maintenance site with eight enrollees, one youth was observed sleeping.

--Upon arriving at a worksite, we saw the supervisor sitting in his car listening to music, while some enrollees were sweeping and raking and others were playing pool. There were 27 enrollees at this site, and 10 were absent. We later determined that 8 of the 10 absent enrollees were paid for this day.

Attendance procedures and payments for absences also affect development of good work habits. Although attendance was usually taken, 45 sites did not do so in a timely manner, and 34 sites had incomplete records. At 101 sites, enrollees were absent when we visited. We later examined payroll records for those sites. At 25 sites, enrollees were paid for this absence; at 71 sites, they were not paid; and at 5 sites, we were unable to determine whether they were paid because of inadequate records.

Supervision also influenced the amount of useful work that enrollees were given. At over half the sites where there was not enough useful work, poor supervision was a contributing factor.

The size of the worksite had some relationship to the development of good work habits. Smaller sites seemed to foster good work habits more often than larger ones. Worksites where all good work habit development factors were present averaged 20 enrollees, compared to an average of 27 enrollees per site for all sites visited. Similarly, sites where all work habit development factors were lacking had an average of 47 enrollees assigned.

As shown in appendix III, about 84 percent of the rural worksites provided opportunities for developing good work habits, whereas only about half of the urban sites did.

Rural sites were smaller, ranging in average size from about 4 enrollees at one sponsor to 10 enrollees at another. Urban sites, on the other hand, ranged in average size from 13 enrollees at one sponsor to as many as 58 at another.

Good work habit development occurred most at sites run by government agencies, whereas poor work habit development occurred most at community-based organizations.

From our discussions with supervisors, we conclude that the supervisors' experience, general understanding of the program's objectives, and awareness of responsibilities significantly influenced development of good work habits. The extent to which we judged these factors favorable at worksites visited is shown below:

	Percent of favorable results	
	Good work habit sites	Poor work habit sites
Supervisor understands program objectives	93	45
Supervisor experienced or trained in supervisory role	96	35
Supervisor experienced or trained in dealing with youth	96	40
Supervisor aware of responsibilities	94	30

When the above factors are classified by total urban sites visited and total rural sites visited, the rural sites had a higher percentage of favorable results for each factor considered.

WHY THE SUMMER YOUTH PROGRAM HAS NOT BEEN MORE SUCCESSFUL

The problems we observed at worksites resulted from management weaknesses on the part of Labor and the sponsors in assuring that worksites were both designed and operated in a manner that would provide meaningful work. The 1978 SPEDY regulations placed increased emphasis on monitoring responsibilities to assure that any prior abuses would not recur. But regulations alone do not assure that abuses will be corrected.

The new 1978 SPEDY regulations required that prime sponsors, when selecting contractors or subgrantees, consider their capability to provide worthwhile work. Also, through visits during program operations, sponsors were to determine whether there was enough meaningful work at sites to occupy all enrollees during the hours they were at the site. These requirements were imposed by Labor partly in response to earlier criticism of SPEDY.

All of the sponsors' programs included these requirements. However, based on our worksite observations and review of sponsors' site selection and monitoring practices, we concluded that few sponsors effectively evaluated and monitored proposed and ongoing activities. Labor, for the most part, did not assure that the requirements were met.

Improvements needed in selecting acceptable worksites

SPEDY regulations allow sponsors to enter into subgrants or contracts only with organizations that demonstrate sufficient program capability. Regulations require sponsors, in selecting subgrantees, to consider the organization's ability to provide worthwhile work. The proposed 1978 SPEDY regulations required sponsors to state that all worksites had been evaluated for compliance with program requirements. The final 1978 regulations merely required that sponsors assure that worksites meet requirements.

During the period before site operations begin, sponsors have the opportunity to evaluate the site's proposed activities in terms of their usefulness, enrollment level to support the activities, and adequacy of supervisors to detect and resolve

potential problems. Information to allow sponsors to make such evaluations should be contained in worksite proposals or be provided for through the required written agreement with each worksite employer.

Most of the sponsors we visited selected subgrantees in a similar manner. Potential subgrantees (including prior SPEDY work sponsors) were solicited, their proposals were evaluated, and the subgrantees were selected or rejected. Once a subgrantee was selected, a contract or agreement was entered into. Some factors considered in evaluating potential subgrantees included prior year assessments, locations of worksites, and value of the work experience. Names of potential subgrantees were sometimes solicited from community agencies, city council offices, and State and Federal offices. Once selected, the sponsor contracted with subgrantees to provide worksite activities.

The selection of subgrantees or work sponsors, however, had shortcomings, which sometimes precluded the development of good worksites. For example:

--One sponsor, which solicited proposals then developed contracts from them, approved vague and questionable worksite activities. Some contracts included activities different from those originally proposed. And our worksite visits revealed activities different from those included in contracts. Too many enrollees were approved for the work available. A sponsor official conceded that his staff needed to provide earlier technical assistance to subgrantees to prevent these problems. In fact, the sponsor's evaluation noted that agencies requested more enrollees than needed.

--One sponsor did not use a standard worksite agreement for all subgrantees. As a result, agreements between the sponsor and subgrantee did not always provide needed information, such as contingency plans and daily hours of operation.

--One sponsor had staff seek out worksites and obtain information on activities planned, supervision, and enrollees needed. A further indepth review and evaluation of the worksites, recognized as needed by sponsor officials, was not made because of confusion within the sponsor's organization about who was to make such evaluations.

--One rural sponsor accepted marginal worksites because good worksites could not be developed near employees' homes.

Appropriateness of work schedules should also be considered in selecting acceptable worksites. Sponsor work schedules for enrollees determine enrollment levels and, thus, the number of work opportunities and worksites that must be developed. This flexibility in setting work schedules means that more or fewer enrollees can be provided work experience at a given worksite. For example, a worksite might need six enrollees, 8 hours a day, for 5 days a week, to accomplish the work at hand. By limiting the work day to 5 hours, 4 additional enrollees, or a total of 10, might be employed. However, this might affect the amount of work at

hand as more enrollees are available during a compressed period of time. If additional enrollees could not be used at the site, another site would have to be developed.

Labor was not effective in assuring adequate sponsor development of worksites. Some Labor regions responsible for sponsors we reviewed did not get involved in evaluating this aspect of program planning. At others, planned or actual evaluations of worksite agreements took place after the program had begun.

Monitoring did not assure that worksites provided meaningful work

Monitoring is important to assure that, during the limited program period, worksites are providing enrollees with meaningful work experience. It can also identify program weaknesses, such as the obvious, basic problems we observed at worksites, so improvements can be made. Monitoring results are essential in developing worksites in future years.

SPEDY regulations require that sponsors' plans describe monitoring procedures to assess both the overall program and the performance of each worksite employer. They also require that sponsors visit a sample of worksites during the first half of the summer program. The worksite visits are to determine whether site activities are the same as described in the worksite agreement, whether there is enough meaningful work to occupy all youths assigned during hours they are at the site, and whether attendance records accurately show time worked. Sites with problems should be revisited. For serious or continuous violations that are not likely to be remedied, worksites should be closed.

Most sponsors' monitoring emphasized compliance with time and attendance and payroll procedures, but did not emphasize qualitative factors, such as enough meaningful work. Some sponsors did not monitor all sites or make as many monitoring visits as planned. Some problems identified were not corrected. For example:

--An urban sponsor's monitoring unit did not visit all sites and made only about one-third of its total planned visits. The monitoring unit noted only a few problems, and few problems that were noted were corrected. Also, the unit did not have a complete list of work locations.

--One sponsor monitored some worksites several times but did not identify the kinds of problems that we found at the same sites. At two sites we noted poor supervision and no meaningful work, but the sponsor, in nine monitoring visits to these sites, criticized only timekeeping activities.

--One sponsor emphasized enrollment and counseling in monitoring but did not consider attendance procedures or the quality of the work experience.

--One sponsor emphasized compliance with child labor laws pertaining to minimum ages for certain occupations but did not provide timely feedback on violations to the SPEDY supervisor.

On the positive side, a rural sponsor did what we considered a good job of monitoring. Preprogram monitoring addressed site conditions, supervisors' qualifications, and potential to provide meaningful work. All sites were visited, and the visits emphasized adequacy and nature of the work.

In recognition of the major program emphasis on monitoring worksites and developing meaningful work tasks, Labor instructed its regional administrators to insure that each prime sponsor was monitored at least three times. At least two of the monitoring visits were to be made when enrollees were present at worksites. An onsite review monitoring guide was issued to regional administrators on July 21, 1978. It included a series of compliance standards and suggested monitoring methodologies. Areas addressed included coordination with other CETA programs, selection of participants, eligibility, worksites, and sponsor monitoring.

The use of this guide was optional, but regions were expected to have a structured monitoring procedure.

As a result of monitoring at sponsors (and through other means, such as complaints and audit findings), Labor, after notice and opportunity for public hearing, can withhold further payment and request return of unexpended funds from sponsors failing to carry out the purposes and provisions of the act (29 U.S.C. 818(d)).

At sponsors we visited, Labor's monitoring activities were limited. In some cases Labor relied on sponsors' monitoring. According to Labor regional representatives, the problem was caused by a lack of personnel. Examples of Labor monitoring at sponsors we visited included the following:

--Regarding the one prime sponsor we visited, a regional official told us that Labor made only 14 worksite visits, reviewed worksite agreements and applications, and reviewed about 150 SPEDY applications. This sponsor had about 1,800 worksites.

--According to an official from another region, Labor visited one sponsor in our review twice, inquiring into eligibility and visiting a worksite. Labor did not visit the other sponsor we reviewed; instead it relied on the sponsor's monitoring.

--One region emphasized administrative aspects (eligibility, enrollee files, and plans). Labor regional officials said they visited seven worksites at one sponsor in our review, increasing monitoring efforts partially because of our presence. The sponsor had 163 worksites. At the other sponsor we visited, the regional representatives monitored on two occasions, covering 30 sites in 4 days. During the visits worksite agreements and sponsor monitoring reports were reviewed. The regional administrator agreed that Labor's monitoring visits were not in depth. He said that Labor's resources for monitoring the program are too limited to allow for effective oversight.

--At a region where we visited two sponsors, regional officials told us they do not have enough resources to do extensive monitoring so they try to determine

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if the sponsor has a monitoring system. They acknowledged the weaknesses we found in the sponsors' monitoring.

Labor's ability to effectively monitor sponsors' activities was also affected by late guidance on program planning. Labor issued final program regulations after all the sponsors had begun recruiting activities. Six of the seven sponsors we visited had begun recruiting and selecting enrollees before their plans describing these activities were submitted to the cognizant Labor regional office for approval. Thus, Labor was not able to determine whether sponsors' recruiting and selection plans were acceptable until after these activities had begun. At one of the six sponsors, parochial school students' opportunities to participate were limited because of a misunderstanding about who was responsible for their applications. The sponsor made some attempt to correct the problem, but efforts were ineffective because of school closing.

We do not believe that Labor's monitoring is sufficient to enable it to meaningfully assess sponsor performance and provide a basis for applying financial sanctions against sponsors that do not comply with the act or regulations.

CHAPTER 3

IMPROVEMENTS NEEDED IN HOW PROGRAMS ARE FUNDED

The Department of Labor's method of allocating SPEDY funds to prime sponsors did not directly relate to the eligible populations' needs or consider sponsors' past performance in meeting program goals. In following funding procedures established in SPEDY regulations, Labor has generally sustained sponsors' relative funding levels from year to year, rather than allocating funds based on economic needs data. As a result, based on such data, many sponsors may have received less than an equitable share of the national funds, while some (generally urban sponsors) may have received more. Our analysis of worksite performance also suggests that funding levels may have affected program quality, especially in urban areas.

FUNDING TO SPONSORS IS NOT CLOSELY LINKED TO NEEDS

The Department of Labor's allocation of funds to prime sponsors did not reflect the relative needs of the disadvantaged youth populations in the sponsors' areas. Labor followed a practice of keeping prime sponsors' enrollment levels the same from year to year. As a result, based on economic needs data, many prime sponsors received less than an equitable share of national funds, while others received more.

Funding the 1978 SPEDY was a two-step process. In the first step, a formula was used to develop allocations based partly on indicators of economic need. However, in the second step, Labor adjusted the formula amount, in effect overriding the formula, so that each sponsor, regardless of relative need, received enough funds to provide the same number of

jobs as in the prior year's program. Since the adjustment considered the minimum wage increase, all sponsors received SPEDY funding increases. As a result of the adjustment, some sponsors received more funds than they would have under the formula (the first step), while many received less. Generally, Labor's funding practice favored urban sponsors at the expense of others.

The funding methodology for the 1978 and prior SPEDY programs had been provided for in SPEDY regulations prepared by Labor. However, the methodology, in basically the same form, is now incorporated in legislation as a result of the CETA Amendments of 1978. Thus, remedying problems in the funding process will require legislative action.

Provisions of the formula

In the absence of a legislatively mandated method of allocating funds, Labor's SPEDY regulations established a formula for allocating funds to prime sponsors which closely paralleled the formula CETA mandated for the comprehensive employment and training services program. 1/

Specifically, funds were to be allocated as follows:

--50 percent based on each prime sponsor's proportion of funds allocated the previous year,

--37-1/2 percent based on the ratio of the annual average number of unemployed persons in the sponsor's area to the national total, and

--12-1/2 percent based on the ratio of the number of persons in low-income families (less than $10,000) in the sponsor's area to the national total.

Although the SPEDY formula contains elements that measure an area's economic needs, those elements are not necessarily representative of the eligible 14- through 21-year-old youth population.

However, developing a formula that more fully considers the needs of the target population will require a concerted effort by Labor. Data that would enhance targeting--youth unemployment rates and numbers of disadvantaged youths--are not readily or consistently available at local levels.

The Congress, in 1976, established the National Commission on Employment and Unemployment Statistics, making it responsible for evaluating and making recommendations to the Congress and the President about the Nation's needs for employment and unemployment statistics. The Commission has numerous studies underway to support future recommendations. It is hoped that in the near future, the Commission's work will result in better data for use in allocating Federal funds to SPEDY as well as other Federal assistance programs.

1/Before the CETA Amendments of 1978, this program was authorized by title I of CETA; now it is authorized by title II of CETA.

Office of Management and Budget concerns on SPEDY funds distribution

The Office of Management and Budget (OMB) also recognized deficiencies in the method of allocating SPEDY funds and specifically requested Labor to provide alternatives to improve fund allocation. This request was made in a January 31, 1978, OMB letter to the Secretary of Labor, which set forth 1978 and 1979 budget levels. Specifically, the letter requested Labor to submit alternative allocation formulas to OMB by February 10, 1978.

OMB needed the analysis of alternative allocation formulas by February to influence the 1978 fund allocations. An OMB official told us that OMB needed Labor's input to consider improved methods of allocating funds because Labor had the resources, including a computer-based model, to analyze the effect various alternatives would have. However, Labor did not furnish the alternatives as requested. Instead, it informed OMB that it had considered alternative allocation methods on its own and had decided that no change was warranted. Labor also made public planned fiscal year 1978 SPEDY allocations in late February. The allocation formula was published in final regulations dated May 19, 1978.

OMB also wanted to find a better way to allocate SPEDY funds, which could be considered during deliberations on the CETA Amendments of 1978. To consider alternative allocation methods and make pertinent recommendations to the Congress, OMB needed to receive the requested information by April 1978 at the latest.

The administration's bill (H.R. 11086 and S. 2570), introduced in the House and the Senate on February 22 and 23, 1978, respectively, contained a modified version of that provision in the 1978 SPEDY regulations which required that previous prime sponsors receive enough funds to support the same number of job positions as in the prior year. This provision was modified only in that the prime sponsor would have the same level of funds rather than the same number of job positions. The bill's allocation formula was basically the same as that in the 1978 SPEDY regulations. The bill's allocation formula differed from the SPEDY regulation formula only in that it considered the total number of adults, rather than the total number of people, in low-income families.

The allocation provisions of the bill are identical to those in the act (CETA Amendments of 1978, Public Law 95-524, Oct. 27, 1978).

Overriding the formula

The 1978 SPEDY regulations contained a provision overriding the formula by requiring (to the extent that funds were available) the Secretary of Labor to allocate to each prime sponsor enough funds to provide at least the same number of enrollee positions as in the 1977 program. This provision insured all 1978 SPEDY sponsors an increase in program funding regardless of relative need primarily to compensate for the increase in the minimum wage from $2.30 to $2.65 an hour.

A similar provision in the CETA Amendments of 1978 provides that the allocation be at least equal to the funds

(rather than the number of enrollee positions as stipulated in the SPEDY regulations) available in the previous year's summer program. When mandated minimum wage increases are considered, this change may allow for gradually reducing the number of enrollee positions.

Both the SPEDY regulation and CETA formula override provisions, however, differ from a similar feature in effect for the CETA comprehensive employment and training services program. In that program, allocations could be reduced by as much as 10 percent from the prior year's level to reflect a decline in relative need and to align actual allocations with the formula based amount.

Inequitable distribution of funds

Based on economic needs data, Labor's funding of SPEDY programs resulted in an inequitable distribution of funds. In bypassing the SPEDY allocation formula to assure that prime sponsors could offer at least the same number of enrollee positions as in the previous year, Labor provided some sponsors more funds than would have been provided under the formula. Conversely, many sponsors received less.

Comparing Labor's allocations to prime sponsors with the amount that would have been provided using the formula shows that 140 sponsors received up to 70 percent more than the formula amount at the expense of 257 sponsors that received as much as 48 percent less than the formula would have provided. Fifty sponsors received precisely the formula amount.

The urban areas generally benefited at the expense of other areas. For example, Chicago's and Newark's allocations were 41 and 30 percent, respectively, above the formula amount, whereas Ulster County, New York's allocation was 44 percent below the formula amount.

The difference between the formula amount and the amount of SPEDY funds actually allocated to sponsors has resulted from application of the override provision. The SPEDY funding practice is unlike that in the comprehensive employment and training services program, where the 10-percent funding cutback provision has resulted in aligning funding levels with formula amounts. The difference between the two programs' funding practices is demonstrated in the Chicago and Newark programs. Those sponsors have received decreasing amounts of comprehensive employment and training services program funds, but increasing amounts of SPEDY funds, during the past 4 years.

Further inequities are apparent when you determine the impact of the part of the funding formula that allocates 50 percent of the funds based on each prime sponsor's proportion of funds allocated the previous year on the formula amount. For example, Chicago's and Newark's allocations were 72 and 89 percent, respectively, greater than a funding level that would be based only on the unemployment and low-income populations, while Ulster's was 61 percent less. Discrepancies in the distribution of SPEDY funds are further demonstrated when 1978 allocations to Ulster and a Midwest city not included in our review (Gary, Indiana) are compared. Although both locations had comparable numbers of unemployed and low-income persons, Ulster was allocated about $264,000 while Gary received about $3.7 million.

The preceding analysis merely shows inequities in how Labor funded SPEDY prime sponsors. It does not consider the ability of sponsors benefiting from Labor's funding practices to effectively use these funds.

SPONSOR PROGRAM QUALITY IS NOT A FACTOR IN FUNDING

Labor does not consider sponsors' past program performance in allocating funds. In fact, our review at the seven locations suggests that Labor can influence program quality by providing sponsors more funds than they can effectively use. The amount of funds a sponsor is allocated is the primary determinant of the number of youths that can be employed and the number of jobs that must be developed.

Our visits to worksites suggest a relationship between enrollment levels and worksite quality. As discussed in chapter 2, our site visits showed that urban sponsors were less able to provide useful work and supervision to enrollees. The sites visited at two urban sponsors funded at levels substantially higher than the amount the SPEDY formula would have allocated provided a lower percentage of enrollees with a meaningful work experience than most of the other sponsors. These problems may have partly resulted from higher enrollments supported by the greater amount of funds Labor allocated.

CHAPTER 4

IMPROVEMENTS NEEDED IN DIRECTING SPEDY AT THOSE MOST IN NEED

Sponsors were providing services to economically disadvantaged youths on an equitable basis, considering the geographic distribution of these youths throughout their jurisdictions. However, in identifying and recruiting economically disadvantaged youths, their efforts were not always targeted at those most in need of SPEDY services. Recruiting efforts were directed mainly at the general in-school population; only limited efforts were made to reach those identified in SPEDY regulations for particular emphasis: dropouts, potential dropouts, and in-schoolers facing significant barriers to employment.

Generally, application periods were adequate, and applications were readily available. In some cases, application periods were extended to reach enrollment goals. This was partly caused by the late receipt of supplemental SPEDY funds.

In establishing eligibility, sponsors had different practices for verifying eligibility information, especially family income. Family income is used to establish that youths are economically disadvantaged. The family income criteria were sometimes based on outdated information because of Labor's delay in providing updated information before sponsors began determining eligibility.

Most job assignments considered the youth's interest. In some cases selection procedures differed among sponsors.

Some procedures did not always provide for equal opportunity for selection.

PROCEDURES FOR RECRUITING AND SELECTING ENROLLEES NEED TO BE MORE CLOSELY LINKED TO PROGRAM OBJECTIVES

SPEDY regulations governing program operations require that sponsors (1) provide services equitably considering geographic distribution of economically disadvantaged youths, (2) provide services to economically disadvantaged youths most in need, (3) give special consideration to eligible veterans, (4) develop outreach and recruiting techniques aimed at all segments of the economically disadvantaged youth population, especially school dropouts, potential dropouts, and in-schoolers with problems, and (5) ensure that enrollee applications are widely available and that jobs are awarded equitably.

Sponsors targeted their programs to economically disadvantaged youths throughout their areas. However, sponsors and their subgrantees did little to identify groups among the economically disadvantaged population that SPEDY regulations singled out for special consideration.

At the locations we visited, the program sponsors, or their subgrantees, generally did not operate their recruiting and selection process in a manner that would assure that all eligible youths in the locality, especially those targeted in SPEDY regulations, would have an equal chance of participating in the program. Most enrollees were students, rather than unemployed youths who had dropped out of school. Furthermore, the sponsors' in-school recruiting efforts involved little specific outreach to youths likely to drop out.

Sponsors' plans provided for equitable distribution of activity throughout their areas

Labor's SPEDY regulations require that sponsors' services be provided on an equitable basis, considering the geographic distribution of economically disadvantaged youths within their jurisdictions.

In the locations we visited, the program was generally targeted to economically disadvantaged youths throughout the sponsors' areas. For example:

--In one large urban location, enrollee positions for particular worksites were allocated to the 15 city councilman districts, based upon a proportional youth poverty formula determined by the city.

--At one rural location, enrollee positions were equitably targeted to each of nine legislative districts in the county. However, at another rural location, SPEDY funds were allocated to counties using inaccurate statistics on the number of poor youths. As a result, some counties got too little funding and some got too much.

Significant segments identified in sponsor plans not related to employment problems

Labor requires sponsors to identify in their SPEDY plans significant population segments to be served and to describe the rationale for selecting them. Regulations governing all CETA programs define "significant segments" as

> "Those groups of people to be characterized, if appropriate by racial or ethnic, sex, age, occupational or veteran status, which causes them to generally experience unusual difficulty in obtaining employment and who are most in need of the service provided by the Act. Other descriptive categories may be used to define a significant segment, if appropriate."

In addition, SPEDY regulations require that efforts be directed at all segments of the economically disadvantaged youth population, especially school dropouts, potential dropouts, and in-schoolers likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other factors.

At locations we visited, target groups to be served or significant segments identified in SPEDY plans to receive services varied. These segments were generally identified on the basis of prior SPEDY experience, rather than on particular employment problems or service needs.

The sponsors identified in their SPEDY plans such enrollee demographic characteristics as sex, age, race, school status, and handicap as significant segments to be served by SPEDY. However, data on the universe and types of persons most in need of SPEDY services were generally not provided. For example, the number of dropout, dropout-prone, and unemployed out-of-school youths was generally not included in the target group information in the sponsors' SPEDY plans.

Labor reports that in 1978, nationwide, 87 percent of the enrollees were students, 7 percent completed high school and were not attending school, and 6 percent were high school dropouts. Also, 38 percent of the enrollees were 14 or 15 years old.

At the sponsors we reviewed, available reports indicated that about 93 percent of the enrollees were students, ranging from about 88 percent at one sponsor to about 97 percent at another. Available information indicated that the portion of enrollees who completed high school and were not attending school ranged from about 1 percent at one sponsor to about 7 percent at another.

Dropouts reported by the sponsors we visited were almost 3 percent of all enrollees. The percentage of dropouts at rural sponsors (about 6 percent) was greater than at urban sponsors (about 3 percent). The portion of enrollees who were dropouts at urban sponsors ranged from less than 1 percent to almost 4 percent. At rural sponsors it ranged from about 2 percent to about 7 percent. Enrollees in the 14- to 15-year-old category at sponsors we reviewed were about 35 percent, ranging from about 70 percent at one rural spon-

sor to about 25 percent at another rural sponsor. Although rural sponsors generally had more enrollees in that age group, two urban sponsors had about half their enrollees in that group.

Labor's studies of SPEDY also commented on the sponsors' approach to targeting. In one study researchers pointed out that, in the 51 grant applications they reviewed, most program plans fail to specify the number of in-school and out-of-school youths to be served. Furthermore, the researchers found that few sponsors differentiate eligible youth by age, school status, or other characteristics such as mental or physical handicaps and that fewer set specific quantitative targets for subgroups. Another study noted that the program was heavily aimed at youths in school. Yet another study recommended emphasizing the importance of recruiting dropouts and taking steps to facilitate that process.

SPEDY regulations require that the prime sponsors coordinate their SPEDY plan with their plans for other CETA youth programs. In addition, sponsors are required to include narratives on strategies for enhancing employment potential and describe how the strategy relates to and is coordinated with other CETA programs.

Although some sponsors we visited had specific arrangements to include other CETA youth program enrollees in SPEDY, the number of such enrollees was generally insignificant compared to the total SPEDY enrollment.

Other CETA youth programs include Youth Incentive Entitlement Pilot Projects (year-round part-time employment to encourage youths to obtain a high school diploma), Youth Community Conservation and Improvement Projects (for unemployed youths), Youth Employment and Training Programs (to help youths complete school and/or obtain unsubsidized employment), Job Corps, and Young Adult Conservation Corps. Also, the CETA comprehensive employment and training services program includes many youths.

One large urban sponsor planned to either enroll or provide services under the 1978 SPEDY to youths participating in the other CETA youth programs. However, another large urban sponsor's 1978 SPEDY had no such links, other than providing youths with information about other CETA programs.

One rural sponsor official told us that SPEDY was not coordinated with other CETA employment and training programs because it was perceived as primarily a work experience and income maintenance program.

The lack of such links was also the subject of several Labor studies of the 1978 SPEDY. One study noted a lack of planned coordination with title I of CETA. Interprogram transfers or concurrent enrollments were very limited. Most sponsors continued to view SPEDY as a short-term, work experience program principally for in-school youths that was unrelated to other program activities. Another study concluded that SPEDY is basically a separate entity, almost always administered independently of CETA title I. Yet another study based on sponsor plans concluded that SPEDY had very weak links with other CETA programs, particularly programs to move

out-of-school enrollees into unsubsidized employment. Once the summer program ended, all SPEDY enrollees were assumed to be returning to school. The out-of-schoolers were generally not assisted in finding other employment, and few attempts were made to place them in other employment and training programs.

Outreach and recruiting were timely and well publicized although not always directed at populations emphasized in SPEDY regulations

SPEDY regulations require that sponsors develop outreach and recruiting techniques aimed at all segments of the economically disadvantaged youth population, especially school dropouts, youths not likely to return to school without SPEDY assistance, and in-school youths confronted with significant employment barriers. In addition, sponsors are required to report separately the number of Hispanic-American clients served.

At most locations we visited, recruiting efforts were timely and SPEDY was well publicized. However, the recruiting emphasis was on in-school youths, and efforts to attract out-of-school youths and Hispanic-Americans were generally limited. In addition, some of the sponsors had difficulty in meeting enrollment goals.

Sponsors did not aggressively recruit all target groups

Besides identifying significant population segments, SPEDY regulations require that sponsors develop outreach and recruiting efforts targeted to all segments of the economically disadvantaged youth population, especially school dropouts, those not likely to return to school without program assistance, and in-school youths facing significant employment barriers relating to work attitude, aptitude, social adjustment, and similar factors.

The program was widely publicized. All seven sponsors used notices at community locations, newspaper announcements, and schools to disseminate information on the program. Most sponsors also used television, radio, and the local employment service to reach area residents.

Publicity aimed at in-school youths appeared to be the most intensive. Schools publicized the program and made applications available at a central location, usually the guidance office. In-school recruiting efforts, however, generally aimed at the general student body and did little to focus on dropout-prone youths or those facing possible employment barriers.

We asked enrollees how they first heard about SPEDY. Over 70 percent learned of SPEDY in school and from friends and relatives. Only about 2 percent first learned of the program through media announcements or at the local employment service office.

Special efforts to recruit out-of-school youths were limited. Only two rural sponsors attempted publicity channels other than through the media, community-based organizations,

and employment service offices. Both mailed letters about the program to welfare recipients, and one also mailed announcements to recent high school dropouts.

For one urban sponsor, community-based organizations were responsible for recruiting out-of-school youths in their areas but did not actively seek applications from them. Program publicity for this sponsor generally did not state where applications could be obtained.

For a rural sponsor, officials in charge of recruitment and selection at two employment service offices were not aware that out-of-school youths were eligible. In addition, media publicity was late, limited, and only in English, despite a large Hispanic-American target population.

Two of the three urban sponsors with large Hispanic-American enrollments in 1977 failed to publicize their programs in Spanish.

As previously stated, most sponsors' enrollees were attending school, over one-third were 14 or 15 years old, and only a small percentage were high school dropouts.

Usually applications were easily available and the application period was adequate

At most locations visited, applications were widely available. At one sponsor, public schools made class time available for students to complete and submit applications. Sponsors usually accepted applications for at least a month and often for 2 months. Three of the seven sponsors extended application periods because of low enrollment.

On June 9, 1978, Labor allocated $63 million in supplemental funds nationwide for the 1978 SPEDY. These funds were provided by legislation (Public Law 95-284) signed May 21, 1978, and, according to Labor, were to provide more than 93,000 additional summer jobs for economically disadvantaged youths. Labor distributed these funds without considering sponsors' ability to absorb the additional funding.

Because of their late receipt of supplemental funds, sponsors extended recruiting to get more enrollees to fill the additional positions made available. One sponsor already experiencing enrollment difficulties was strained to obtain more enrollees but, by extending the enrollment period about 1 month, was able to meet its goal 2 working days before the program began. Another sponsor that received added funds was not able to meet increased enrollment goals until the third week of the program.

One urban sponsor that received about $1 million in supplemental funding estimated that $1.5 million of its funds available for 1978 SPEDY will be unexpended as of December 31, 1978. This sponsor also carried over about $99,000 in program funds from 1977 to 1978. Such carryovers are not unusual. In fact, all but 66 of the 447 prime sponsors carried over some 1977 funds into 1978. And 97 carried over at least 10 percent of the prior year's funding.

Differing verification procedures and eligibility criteria used in determining eligibility for SPEDY

SPEDY regulations establish that persons must be economically disadvantaged and a certain age to be eligible for participation. They also require sponsors to describe their process for determining eligibility, including verification methods used. Procedures for verifying that persons were economically disadvantaged differed among sponsors.

The sponsors we visited also used different eligibility criteria, because Labor was late in providing (1) the 1978 SPEDY regulations, which define eligibility and permit the use of two different family income criteria for economically disadvantaged, and (2) the latest family income criteria.

Income data not always verified

SPEDY regulations require sponsors to explain in their plans the process for determining eligibility and the verification methods to be used. But Labor does not specify any particular verification methods.

At the locations visited, sponsors used information provided on SPEDY applications or otherwise obtained during the intake process to determine eligibility. However, the extent to which this information was verified differed. Four sponsors required evidence to support family income or verified welfare status, where applicable; however, one sponsor's subgrantees did not always do this. One sponsor tested data on about 10 percent of the applications after the program began, but the results were not complete. Two sponsors visited did not verify any eligibility information, although a subgrantee of one of them did.

Labor did not specify procedures to be followed in verifying the accuracy of information on applications.

Over the past 4 years, Labor internal auditors have issued many audit reports disclosing significant numbers of ineligible SPEDY participants. Also, a recent report of the Labor internal auditors on the CETA public service employment eligibility determination systems of prime sponsors showed that about 10 percent of program participants were ineligible. Thus, more effective prime sponsor eligibility determination systems are apparently needed.

The CETA Amendments of 1978 require Labor, before approving any future plans, to ensure that prime sponsors have demonstrated a recognizable, proven method of verifying eligibility of all CETA participants. Labor may require that the method be modified or that specific procedures be adopted when necessary. Labor is also required to develop, and inform prime sponsors of, recognizable penalties to be applied when any participant is found to be ineligible.

Differing criteria for determining whether youths were economically disadvantaged

SPEDY regulations for the 1978 program required that, to be eligible for SPEDY, a person must be

--economically disadvantaged,

--14 to 21 years old when beginning participation, and

--a U.S. citizen or resident alien.

Youths were considered economically disadvantaged if they were a member of a family (1) which receives cash welfare payments under a Federal, State, or local welfare program or (2) whose total annual income in relation to family size does not exceed the higher of the poverty level determined in accordance with Office of Management and Budget criteria or 70 percent of the Bureau of Labor Statistics (BLS) lower living standard income level.

In the 1977 program, only the OMB poverty level was used in determining total family income.

The CETA Amendments of 1978 now define an eligible youth for the summer youth program as an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school and (2) either age 16 to 21 inclusive or, if authorized under Labor regulations, age 14 to 15 inclusive.

Seventy percent of the BLS lower living standard income level is usually higher than the OMB poverty level. Consequently, using the 70-percent figure increased the number of youths eligible for the 1978 program. In addition, the lower living standard income level reflects geographic differences in the cost of living, while the OMB poverty level, which includes one amount for farm families and another for nonfarm families, is the same throughout the contiguous United States. Both the OMB and BLS levels are adjusted for family size.

For the 1978 SPEDY program at the sponsors we reviewed, the OMB poverty level for a four-person family was $5,270 for a farm family and $6,200 for a nonfarm family; the comparable BLS 70-percent figure ranged from $7,240 at one rural sponsor to $7,810 at one urban sponsor. Both income criteria are adjusted annually to reflect changes in the Consumer Price Index.

For the 1978 SPEDY, Labor was late in formally notifying sponsors of the current level of the two criteria and of the sponsors' option of using either level. None of the sponsors were formally notified of the new levels until after they began determining enrollee eligibility. One sponsor, which began eligibility determination on May 1, did not get information from Labor showing the up-to-date BLS criteria until June 28. Several other sponsors obtained income criteria from other sources before being formally notified by Labor. For example, one sponsor, which began determining enrollee eligibility in March, obtained BLS data from Labor by telephone in June. Labor did not formally furnish the data to this sponsor until August.

The impact of this late notification varied among sponsors we visited because of the different ways sponsors used the income criteria. Two sponsors visited used the generally lower OMB criteria because they wanted to get the poorest youths into the program. One of them used the 1977 OMB criteria because the 1978 criteria were not yet available.

One sponsor used the 1977 BLS income standard for the 1978 program because it believed that the higher of BLS or OMB should be used, while others apparently considered BLS only as a ceiling in establishing family income criteria.

At two sponsors the late criteria resulted in an increased administrative burden. They used the 1977 BLS income standard and later redetermined eligibility using the 1978 BLS income standard.

At a rural sponsor some locations had a limited number of applicants, and not all positions were filled. The sponsor used the 1977 BLS income standard but did not redetermine eligibility using the more liberal 1978 BLS standard.

Little uniformity in how applicants were selected

After determining which youths were eligible for the program, sponsors then had to select applicants for jobs. SPEDY regulations required that jobs be awarded equitably. In practice, eligible applicants were selected for jobs in many different ways, ranging from a random lottery selection to preselection by work sponsors.

At the sponsors we visited, some selection practices provided for all eligibles being considered for jobs, while others did not.

At four of seven sponsors a lottery, or first-come-first-served basis, was usually established. Two of the four did set some selection priority, such as giving preference to welfare recipients or title I enrollees. One also excluded high school graduates.

Two other sponsors had varying selection procedures because these activities were carried out differently by their subgrantees. At one sponsor, two of three subgrantees we visited accepted enrollees on a first-come-first-served basis. The other subgrantee allowed worksite operators to select enrollees as they chose, which sometimes resulted in selection based on knowledge of the applicant or his family. Another sponsor allowed some worksite operators to preselect up to half their enrollees, with the rest selected randomly. Two other subgrantees were allowed to select as they chose, and they generally did this equitably. One rural sponsor permitted worksites to select from eligible applicants referred to them and also to request specific enrollees.

Youths' interests were usually considered in assigning them to jobs

At the sponsors we visited, enrollee interests were usually considered, where possible, in worksite assignments.

Once applicants are selected, they are assigned to worksites where they are to receive work experience. The procedure for assigning enrollees to worksites varied. One sponsor had a highly centralized system that used computer lists of enrollees' interests and location preferences. For several other sponsors, the enrollees applied at the worksites.

At several sponsors, different assignment methods were used, depending on the type of jobs offered or the subgrantee operating a program. For example, at one large urban sponsor, about half of the youths could select the job they wanted by applying directly to the subgrantee, while the other half were assigned somewhat randomly considering such factors as location. In general, there was an effort to match jobs to enrollees' interests.

We asked enrollees whether they were doing the type of work they asked for. About 70 percent said they were, about 29 percent said they were not, and the rest did not answer.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The Department of Labor's Summer Program for Economically Disadvantaged Youth is the largest of several programs established by the Congress to provide employment services to youths. SPEDY has an admirable objective to provide youths meaningful work tasks and training to develop their skills and enhance their future employability. But, to be an effective tool to combat the high unemployment rate among disadvantaged youths, particularly inner-city minorities, the program must maintain congressional and public confidence that it is being carried out effectively and as economically as possible.

However, the 1978 SPEDY often did little to provide enrollees with meaningful work experience. Rural sponsors in our review operated generally effective programs, but only about one youth in four at the urban sites visited was exposed to an environment that reasonably resembled the real world of work. The summer youth program in urban areas has apparently not progressed much further than its predecessor, the Neighborhood Youth Corps, which was criticized for being little more than an income maintenance program.

Labor's efforts to assure that State and local governments were operating quality programs were not very successful. Although Labor strengthened regulations, its regional offices did not effectively monitor sponsors to assure that they fulfilled program requirements. The regulations, while providing a framework for operations, do not provide specific guidance to sponsors on how to assess the quality of worksite experience--the core of the program. Prime sponsors also share a large responsibility, as they are directly responsible for managing their programs.

The SPEDY experience for most enrollees at the urban locations visited was not meaningful because the worksites did not provide enough useful work or an environment for developing good work habits, two factors that we consider necessary for a work experience to meet SPEDY objectives. The program's purpose is defeated when youths are paid for doing little or no work or for playing games or when they are paid even though they were late or absent. Poor work habits that are learned or reinforced will offset any benefits received.

Although the immediate causes of problems we observed were too many enrollees or poor supervision, the ultimate responsibility for such shortcomings rests with the sponsors' and Labor's management. Many of the problems should have been prevented by effective selection of worksites or detected by effective monitoring of worksite activities.

Labor's method of funding sponsors, now incorporated in legislation governing SPEDY, may have contributed to worksite quality problems and precluded funds from being allocated equitably. In funding programs, Labor sought to at least maintain the number of enrollee positions a sponsor could offer from year to year without directly considering the needs of the eligible population or the ability of the sponsors to absorb and effectively use the funds.

The funding practices generally provided urban sponsors a greater relative share of the national funds than they would have received under the allocation formula. In addition, the funding procedures do not provide for gradually reducing annual allocations to bring them closer to formula amounts, a feature that is included in the funding procedures for the comprehensive employment and training services program. The funding practices may have generated programs too large to provide enough meaningful work.

In addition, the program may not be serving those most in need of SPEDY services. Although regulations require that emphasis be given to school dropouts, potential dropouts, and others facing employment barriers, most of the sponsors targeted the program to the general in-school population. Participation by out-of-school youths in the program was minimal. In addition, there was significant enrollment of 14- and 15-year-olds, who are seemingly less in need of job preparedness than older youths. Further, sponsors' methods of assuring that only eligible youths were enrolled were varied and sometimes limited.

RECOMMENDATIONS TO THE CONGRESS

There are inevitable problems associated with effective administration of a program which has grown as rapidly as the summer youth program. Consequently, we recommend that the Congress, before considering any expansion of the program, assure itself that the Department of Labor has taken effective corrective actions to improve the quality of the program.

We recognize that inflation and minimum wage rates increase program costs over time. However, based on the observations of our current study, the program as presently operated is generally not giving many youths the type of work experience they need to increase future employability. This is especially true in urban areas. We believe the fiscal year 1978 funding levels are more than sufficient to continue program operations until Labor (1) provides specific guidance to sponsors on how to assess the quality of worksite experience, (2) establishes an effective means of determining whether sponsors are providing meaningful work to enrollees and meeting other program requirements, and (3) develops and proposes to the Congress funding procedures that more adequately consider the needs of the eligible youths and allocate funds to sponsors based on demonstrated success in providing meaningful work.

In the interim, the Congress should consider amending the Comprehensive Employment and Training Act provision for allocating summer youth funds to provide funding procedures similar to those in the act for comprehensive employment and training services programs. The latter funding procedures provide for gradually adjusting annual allocations to bring them closer to formula amounts.

RECOMMENDATIONS TO THE SECRETARY OF LABOR

We recommend that the Secretary of Labor

--provide sponsors with specific guidance on how to assess the quality of worksite experiences, including developing models of work settings that provide the opportunity to develop good work habits and identifying and prohibiting activities that bear no relationship to real work;

--take effective action (1) to improve regional office monitoring of the program to assure that sponsors develop and operate programs that provide meaningful work and (2) to withhold funds from sponsors that have not developed programs meeting requirements;

--develop and propose to the Congress funding procedures that more equitably distribute program funds to the eligible population while also considering sponsors' demonstrated success in past summer youth programs;

--take effective action to assure that sponsors recruit and increase the participation of out-of-school and other youths who are most in need of program employment and training services; and

--require sponsors to obtain from applicants adequate evidence supporting eligibility and to verify eligibility.

AGENCY COMMENTS

To meet the reporting deadline established by the Senate Committee on the Budget, we requested that Department of Labor officials meet with us to discuss a draft of this report. The Department's view was that a position regarding the report could not be developed in the very short time frame allowed. As a result, formal Labor Department comments were not considered in the preparation of this report. At the conclusion of our fieldwork, however, we did meet with officials of the Labor regional offices and prime sponsors involved. Their views were considered in the preparation of the report.

CHAPTER 6

SCOPE OF REVIEW

We evaluated the effectiveness of the 1978 summer youth program in providing a meaningful work experience and targeting to disadvantaged areas and groups. The 1978 program was authorized under section 304 of CETA, as amended; the 1978 CETA Amendments now authorize the program under section 481.

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We reviewed the legislative history; Department of Labor regulations, policies, and operating procedures; funding and performance data; and evaluation studies related to the summer youth program. Fieldwork was done primarily at Labor's regional offices in Boston, New York, Chicago, and San Francisco and at seven sponsors. Although sponsors' program periods varied, our fieldwork generally covered their activities during March through September 1978.

We selected sponsors of various sizes located across the country. Sponsors reviewed included.

--two large cities (Chicago and Los Angeles);

--two medium-size cities (Newark, New Jersey, and New Haven, Connecticut); and

--three rural areas (Central Arizona Association of Governments (CAAG); Tri-Town, Rhode Island; and Ulster County, New York).

Chicago, Los Angeles, Newark, and Ulster County are prime sponsors, receiving funds directly from Labor. Chicago operated its program through seven subgrantees. We reviewed activities at worksites operated by three of these. In Los Angeles, we visited worksites operated by the city and two of its five subgrantees. Newark operated worksites directly and through one subgrantee. We visited only city-operated worksites, since these represented more than 90 percent of the total enrollment. In Ulster, we reviewed the activities of the sole subgrantee responsible for all program operations.

New Haven is the largest of a combination of local government units that make up the New Haven Consortium prime sponsor. We selected only New Haven for review to concentrate our efforts on an urban location.

The Central Arizona Association of Governments and Tri-Town are each a regional group of local governments and are subgrantees of their State prime sponsor. We selected CAAG and Tri-Town only in order to limit our work to specific rural locations.

In this report we refer to all seven locations reviewed as "sponsors."

At the sponsors visited, we interviewed sponsor and subgrantee/work-sponsor representatives, examined sponsors' plans to implement the 1978 SPEDY, reviewed enrollee recruiting and application processes, and selectively checked the sponsors' eligibility determination procedures.

To determine what SPEDY enrollees were doing and whether worksites provided meaningful work experience, we visited selected SPEDY worksites of the sponsors in our review. Some of these sites were operated directly by the sponsors, while others were operated by organizations under agreement with sponsors.

The worksites visited were selected to provide a variety of work experiences (according to worksite plans) and to include different types of worksite operators, including govern-

ment agencies, community-based organizations, civic or religious groups, and other nonprofit organizations.

Our visits to worksites, which were usually unannounced, included indepth interviews with supervisors and enrollees. Whenever possible we visited sites at starting times to observe attendance procedures. We recorded our worksite observations using pro-forma data collection instruments to insure consistent evaluation results. Our interviews were also recorded on pro-forma documents. We used automatic data processing techniques to tabulate and analyze the results.

We visited 230 worksites (173 urban and 57 rural) and talked with 224 supervisors and 1,008 enrollees. The numbers of worksites visited and enrollees interviewed compared to all worksites and their enrollment for each sponsor in our review are shown on the following page.

	Worksites			Sites visited	
Sponsor	Total	Visited	Enrollee universe	Total enrollment	Enrollees interviewed
Urban:					
Chicago	1,850	43	47,731	2,082	210
Los Angeles	2,252	45	16,715	875	226
New Haven	230	45	3,212	604	189
Newark	446	40	7,719	2,337	187
	4,778	173	75,377	5,898	812
Rural:					
CAAG	145	23	436	120	70
Tri-Town	37	16	222	168	76
Ulster County	163	18	452	71	50
	345	57	1,110	359	196
Total	5,123	230	76,487	6,257	1,008

The number of enrollees assigned to urban sites visited ranged from 1 to 260; the number assigned to rural sites ranged from 1 to 30.

We also made selected tests of sponsor payroll procedures to see whether enrollees were paid for days of absence, and we inquired about the development and monitoring of worksite activity by sponsors and Labor.

MINIMALLY ACCEPTABLE WORKSITES

AND ENROLLEES ASSIGNED COMPARED TO

ALL WORKSITES VISITED AND THEIR ENROLLMENT

BY SPONSOR

Sponsor	Sites			Enrollees assigned		
		Minimally acceptable			At minimally acceptable sites	
	Visited	Number	Percent	At all sites visited	Number	Percent
Urban:						
Chicago	43	15	35	2,082	706	34
Los Angeles	45	28	62	875	495	57
New Haven	45	20	44	604	184	30
Newark	40	7	18	2,337	183	8
	173	70	40	5,898	1,568	27
Rural:						
CAAG	23	18	78	120	97	81
Tri-Town	16	13	81	168	137	82
Ulster	18	14	78	71	46	65
	57	45	79	359	280	78
Total	230	115	50	6,257	1,848	30

WORKSITES PROVIDING ENOUGH USEFUL WORK AND ENROLLEES ASSIGNED COMPARED TO ALL WORKSITES VISITED AND THEIR ENROLLMENT BY SPONSOR

Sponsor	Sites			Enrollees assigned		
		Providing enough useful work			At sites with enough useful work	
	Visited	Number	Percent	At all sites visited	Number	Percent
Urban:						
Chicago	43	29	67	2,082	1,361	65
Los Angeles	45	31	69	875	519	59
New Haven	45	29	64	604	283	47
Newark	40	8	20	2,337	192	8
	173	97	56	5,898	2,355	40
Rural:						
CAAG	23	19	83	120	101	84
Tri-Town	16	15	94	168	155	92
Ulster	18	17	94	71	64	90
	57	51	89	359	320	89
Total	230	148	64	6,257	2,675	43

WORKSITES AND ENROLLEES ASSIGNED WITH SUPERVISION WHICH PROVIDED OPPORTUNITY TO DEVELOP GOOD WORK HABITS COMPARED TO ALL WORKSITES VISITED AND THEIR ENROLLMENT BY SPONSOR

Sponsor	Sites			Enrollees assigned		
		Providing good work habits			At good work habit sites	
	Visited	Number	Percent	At all sites visited	Number	Percent
Urban:						
Chicago	43	21	49	2,082	1,133	54
Los Angeles	45	31	69	875	581	66
New Haven	45	28	62	604	338	56
Newark	40	12	30	2,337	520	22
	173	92	53	5,898	2,572	44
Rural:						
CAAG	23	20	87	120	111	92
Tri-Town	16	14	88	168	150	89
Ulster	18	14	78	71	46	65
	57	48	84	359	307	86
Total	230	140	61	6,257	2,879	46

Senator CHILES. I want to focus primarily on the findings from the urban areas.

We asked GAO to look at both urban and rural areas to see what the differences were and whether big programs operated differently from small ones.

The record shows that GAO found higher levels of performance at the rural sites where there were fewer enrollees per site and fewer to arrange jobs for the entire program.

I think that's an important finding and should serve to keep down expectations about how fast we can build a program to deal with the really tough cases of structural employment.

But the major justification of the summer youth program is that we need to avoid social problems of large numbers of unemployed youth in our big cities. That's a political force in the program, and that's where it seems to be performing poorly.

You remember, Mr. Chairman, a time that this committee, with Senator Brooke and others, would add money to the program on the basis of what we needed to do in the big cities. But now we find that that's where the program is functioning most poorly.

I want to start with a question of whether the kids that participate in the program are being provided real work to do. I asked the General Accounting Office to investigate this aspect because, to me, it's the core of the program. If teenagers don't learn that they're expected to work for their pay, it undermines the whole attitude toward employment. It also tells them that the Government is putting on a charade; it's not really serious in what it says it's going to do.

The GAO numbers—and this is in appendix II—looked really bad to me. Of 173 worksites visited by GAO, only 97, or 56 percent, provided 3 or 4 hours of useful work. Even worse, the sites only covered 40 percent of the enrollees. So, 60 percent of the enrollees were not getting even 3 or 4 hours of useful work.

The enrollees with enough useful work to do ranged from a high of 63 percent in Chicago down to 8 percent in Newark.

How can we call this an employment program when less than half of the participants are getting 3 or 4 hours of useful work?

IMPROVING THE SUMMER PROGRAM

Mr. GREEN. Thank you very much, Senator. Our evaluation that we looked at last summer, some 827 worksites and visited some 75 primes and did interviews with some 2,000 young people show participants engaged in meaningful and useful work—and we agree that the program over a period of time has not been as well focused as we would like. We have, with the recommendations spelled out in the GAO report, moved through our regulations to improve: One, to require, of course, training of supervisors; two, to require that worksites be monitored.

We have required the regional office to monitor the summer program at least three times during the entire summer.

I would point out, though, one thing: That our research, also evaluation, shows that this program provided two-fifths of all employment for disadvantaged young people between the ages of 15 and 21; and, in addition to that, that this program was one of our

most highly targeted programs. The more economically disadvantaged that the participants turned out to be, young people in which not only is this important to their work experience, but it turns out that this is an important part of their family income, that a significant portion—over 50 percent of the participants—were in families on welfare, and that a significant portion of the participants' earnings earned that summer were an important part of the family income for that entire year.

And we would agree with GAO and with you, Senator, that this program, as the fiscal year 1980 budget requests, removes 14-year-olds from it, can be more—better-monitored, overseen; and we are hopeful to work with you and with the Members of Congress to continue to improve this program.

Senator CHILES. Well, I notice——

Senator MATHIAS. Would you yield just a moment? Because the profile you've given of the program is exactly the profile that concerns the members of my Baltimore proposition 13 committee, which I described to you a few minutes ago.

You picked up exactly the kind of enrollees that you profiled for in holding to that year, and then you put him right back where he was. And that is a matter of enormous concern from a community point of view.

Mr. GREEN. Well, Senator, a large portion of these young people are in school during the September–May part of the year. This provides for many of them employment during the summer, and that is one of the important aspects of some of the sites that I had an opportunity to visit, the increase of linkages with the educational area. Trying to use this program as an additional incentive.

We have now an agreement with HEW with the Upward Bound program in which we are trying to provide the summer youth employment program as an additional incentive for those young people who have been identified as college-bound young people from disadvantaged families a chance to do something.

I think that the bulk of these young people will and do return to school, and that the summer youth employment program, as indicated in the data that we have, without much in the way of private employment hiring, is the only job available in many of these communities for many of these young people.

CHARACTERISTICS OF SUMMER YOUTH EMPLOYMENT PROGRAM PARTICIPANTS

Senator CHILES. I note that in your own report that you've just described to us it's true, however, that they found only one place where a concentrated effort seemed to have been made to reach what can be described as hard cases.

And then, I look at the GAO study, and one of the disappointing statistics cited by GAO is: Despite the emphasis placed in reaching dropouts in your regulations, only 6 percent of the enrollees nationwide are dropouts.

In their sample, GAO also found a miniscule number of high school dropouts being served.

I note in your own review, you found that very little was being done for next year's programs.

What changes are being made to see that a significant number of dropouts are reached?

Mr. GREEN. Well, Senator, as you know, the statute doesn't limit the summer youth employment program only to dropouts. One of the things is the administration is expanding the youth employment training portion of the youth act so as to increase that and to increase the outlays going to out-of-school youth. We have encouraged, in our regulations, that more activity be made available for out-of-school young people. But the statute doesn't allow us to extend the program only to out-of-school youngsters. And that is defined as being economically disadvantaged. That's a family income for most metropolitan cities, with a family of four, being under $7,000. That prime sponsor has to meet that statutory requirement, and that is where we have focused our attention.

But I agree with you, that we have encouraged as much as we have within the restrictions of the legislation that out-of-school youth be given all consideration in the programs that we have. The inability to make that exclusively——

PLANNING FOR THE SUMMER PROGRAM

Senator CHILES. Looking at the GAO report and some of the areas that they found, they found that the immediate causes of the poor supervision were supervisors not directing enrollees to do useful work in the sites being assigned and more enrollees to do the work than was at hand. I am looking at page 14 of the report right now. Some enrollees signed in and left; some were up to 2 hours late on one site.

They found one site involved in activity in which there were 84 enrollees to serve as police aides. That sounds like a very good activity to me. But then there was no coordination or approval of the city's police department. Ten of the enrollees served as dispatchers, while the rest patrolled sections of the neighborhoods in groups of about 10 for peacekeeping purposes.

The site did not have any phones or any means for dispatchers to communicate with field patrols; consequently, the dispatchers were idle.

The 74 enrollees in the 8 patrol units were not trained, had no identification, and were not accompanied by an adult supervisor. "We drove around the area but were not able to locate any of the eight squads."

Sounds like to me somebody wrote up a good plan on paper and did absolutely nothing to see that that plan would work or there was any coordination.

If you found a plan like that, what would you do about it?

Mr. GREEN. The regulations now require year-round planning for the program. The regulations for 1978 require the prime sponsors to submit to us in advance the program activity for each subgrantee, each program operator.

As you indicated, this would be a program on paper that would have advantages to that community. Without adequate supervision, there would be a problem in overseeing it.

I would point out, though, that for the summer program, there are roughly some 50,000 worksites around the country and over 450

prime sponsors. We certainly would agree with you and with GAO that a worksite like this was not working to the advantage of the young people.

But, again, Senator, the evidence that we have and what we've done in our regulations as well as our monitoring is to strengthen the Department's ability to require prime sponsors to submit beforehand a summer plan.

Second, they have to have trained those subgrantee operators who, for the most part, carry out these programs.

MONITORING THE SUMMER PROGRAM

Senator CHILES. This plan would probably pass. I would not have any question of that plan. I would think that would be a very meaningful endeavor. You don't have the ability to check to see whether that plan is actually being carried out. And I don't find fault with your regulations.

Your regulations seem to provide that you want these things, but how in the world are you going to check it to see that there's credibility in the plan?

Mr. TAGGART. Senator, I think I would put that in the context that for a number of years the summer youth program has been largely the neglected child. It was not until 1978 and 1979 that language was put in the regulations. It was not until 1978 that there were worksite agreements, training, and supervision requirements that would put in regional requirements of monitoring the prime sponsor and add the prime sponsor requirement to monitor the sites.

I think the changes in the programs were like changing the direction of a supertanker. It takes a long time for this to move through the system.

Regulations in 1978 came out in May of 1978 and started to affect the plans in 1978. Their major effect will be felt in 1979 and 1980.

For instance, after they had monitored worksites, those can then be excluded from the plan in 1979. It's very hard to make midcourse directions in here. If you spot problems ahead 5 weeks, you move against that program; it is almost at the end of the program before it can change anything significantly.

Now, this is the first time that we now have steps in regulations to monitor procedures, to spot those, and to take those actions. We will be judged by what occurs next year.

For the first time ever, the Department of Labor has done evaluations of this program on a large scale. The only evaluations of the summer program in the last 14 years were the 14 GAO investigations. We have the following investigations that are presented here. We have done a huge amount of technical assistance.

We had the first national conference of summer programs delivered in order to communicate to them what was needed and what were the best techniques. We have created films to present to prime sponsors so they can train worksite supervisors. We're moving out on this very effectively at this point.

Whether it would change the program in 1979, I think it is premature to ask if those things will have an effect.

MONITORING THE SUMMER YOUTH EMPLOYMENT PROGRAM

Senator CHILES. I am concerned that you may have the regulations there now, but if those regulations can't be monitored, if you don't have inspectors and you don't have the onsite inspections then you have the best regulations in the world—and I didn't find a lot of fault with all your regulations before—but you're not going to do anything.

You say it takes a while for this tanker to change course. I think what Senator Mathias is about to tell you is: This tanker is about to be bombarded; it won't be on the high seas anymore if you don't get something done to change it.

Mr. TAGGART. That's absolutely correct. What we are looking for in monitoring and improving the worksites is not a system in which Federal investigators were on every street corner. We have a system where prime sponsors are now required to review the worksites of each subagent in a city like New York and St. Louis, which has thousands and thousands of subagents, of which there are thousands of worksites under that. They're now required to monitor those.

The regional office of the Department of Labor goes out three times to monitor the monitoring procedures of the prime sponsors, and the Department of Labor also goes out at the national office level to monitor both the regional offices, the prime sponsors, and the subagents.

With this compilation of monitoring activities, we can correct these problems over a period of time, and they have just been put in place in the last year.

Chairman MAGNUSON. The Department of Labor reports on these matters for years. Why is this year any different?

Mr. GREEN. I would like to point out, Mr. Chairman, that one of the things——

Chairman MAGNUSON. I don't know why it's been going on for years.

Mr. GREEN. I don't, either. The summer program is some 14 years in existence, and for the first time, last summer, the Department brought together the program participants to explain, to look at exemplary projects for the first time in the 14-year history of the summer youth program, the first time the Department has required a very strong oversight by the prime sponsors in terms of monitoring the subgrantees.

I might just point out, I was in error. It turns out not to be 50,000 worksites, but more than 150,000 worksites throughout the country involved in this summer youth program.

Chairman MAGNUSON. You're trying to do a better job with the summer program, that's been neglected for years. Every fiscal year there is another report. They're not new to us.

STAFFING TO SUPPORT THE SUMMER YOUTH EMPLOYMENT PROGRAM

Senator CHILES. Mr. Green, your budget justification shows that of your 3,567 current staff, 1,454 are assigned to comprehensive employment development. From the data provided to our staff, the regions have 1,159, or 76 percent, of these; about two-thirds, or 766 professions. That means 766 professional field staff have to monitor

450 prime sponsors who, in turn, operate through thousands of subcontractors.

I understand that ETA estimates range from 50,000 to 70,000 total worksites. That produces an average of 55 to 90 worksites per staff, including all the contract management, administrative professionals.

The day-to-day dealing with prime sponsors, including approval of their annual plan and grant applications for all special programs in CETA is handled by about 300 Federal representatives. Is it fair to say that the Federal representatives are already so stretched that they can't possibly visit a large proportion of the 50,000 to 70,000 sites to see whether work is actually being performed?

Mr. GREEN. Well, Senator, I don't think the monitoring system would require that each site be seen by the Federal representative. The idea that both Congress and the administration, in refocusing this employment program in CETA, tries to put greater responsibility on the prime sponsor as well as on the subgrantees, and to require both a monitoring oversight, fiscal responsibility, independent audit system, all of these to move toward our ability to look at a prime sponsor, rather than, in the city of New York, to have that Federal representative to look at the 10,000 worksites that are involved.

And it seems to me what we have done, both with Congress and through the new act, is to strengthen the Department's oversight responsibility and also give the prime sponsors greater tools to oversee their subgrantees.

Senator CHILES. We're just saying they ought to monitor themselves?

Mr. GREEN. No, sir. I said, if we monitor the prime sponsors.

MONITORING WORKSITES

Senator CHILES. If you only monitor the prime sponsors—and that's not the worksite—then you're just looking at his papers, and if he's got the questionnaires there, if he's got the regulations and plans there, you're going to look at that and say, "That's fine." But you don't get down to the worksite?

Mr. GREEN. No, sir. We have sampled worksites that we do oversee, as required; and the regional offices, as the GAO report indicates, that, too, was a sample.

Senator CHILES. It was a disaster sample.

Mr. GREEN. If you look at that sampling procedure, this was to look at Newark, not to look at Los Angeles, to look more at Newark.

Senator CHILES. They did look at Los Angeles?

Mr. GREEN. Only 20. They looked at Newark, 80, and then they extracted a national sample and blew it up to represent the entire country.

My point is that we do have a sample procedure built in that requires the regional offices to sample worksites, not just to look at the prime sponsors. And, from that, to do it in a random fashion so that we also have a feel for the individual work activities that the young people are engaged in.

Mr. TAGGART. I think it's important to express the necessity of a pyramid structure of monitoring. For instance, in the General Accounting Office report on the city of Los Angeles, that report only covered 2 percent of the worksites in Los Angeles, which is one of only seven prime sponsors investigated nationwide.

Within that one example, they cited where a regional office came in to one of the prime sponsors and monitored only 4 percent of the worksites.

And so, it is very difficult, no matter how many Labor Department officials you have to investigate all of the sites; you have to have a pyramid structure. What we do with our monitoring procedures is to assure that those monitoring procedures are followed by prime sponsors and are being sold by subagents. And if not, we go in to move against that.

LACK OF QUALITY PROGRAMS

Senator MATHIAS. Just a point. Mr. Secretary, you know that you and I have discussed these programs many times and, I think, with constructive results. And you know that I have been very seriously interested in them. If I appear critical today, it's only because I want to see the programs work to the best advantage of the whole country, as well as the people immediately involved.

But I want to make a point about what Senator Chiles is saying about the sample. They're more than disaster samples. I think they're representative samples because of what the staff report says to me is just what I am hearing from my constituents in Baltimore who are on the firing line. These are people who are involved in the program, and they tell me just exactly what this report is telling me: That enrollees at more than a third of the sites we visited, representing 57 percent of the total enrollment at all sites visited, were not engaged in enough useful activities. Less than three-fourths of enrollees were used constructively. We suspect that they were exposed to unrealistic work situations and distorted impressions of what would be expected in the real world of work.

For about 60 percent of urban enrollees, there were not enough useful activities, whereas only 11 percent of the enrollees were at sites where there was not enough work, and so forth.

I merely interject this to underscore what Senator Chiles is saying.

REDUCED SUMMER PROGRAM

Chairman MAGNUSON. Maybe the program is getting too big. Maybe we had better cut it a little bit.

Mr. TAGGART. Senator, that is, of course, the recommendation of the administration.

Senator EAGLETON. If their budget is cut very substantially, from a gross figure of $740 million, with a million enrollees, to $533 million——

Chairman MAGNUSON. You would get a better handle on it.

Mr. GREEN. Yes, sir. The 1980 budget request does concentrate on 15- to 21-year-olds. It excludes 14-year-olds. And that portion of the universe represents roughly 250,000 participants.

Mr. TAGGART. And this isn't very much.

Mr. GREEN. Overall, last year, only about 6 percent were high school dropouts. The rest were enrolled in school.

Chairman MAGNUSON. And you figure that most of them go on?

Mr. GREEN. Yes, sir. They continue through their school year and return to school.

Chairman MAGNUSON. I have to go. I wonder if I might interrupt this discussion of the youth program and ask just one question, going back to CETA.

PUBLIC SERVICE EMPLOYMENT CARRYOVER FUNDS

Why do you assume that you need a 20-percent carryover of public service job funds?

Mr. GREEN. The program carries normally about a 10-percent carrying that it operates with. What our experience has shown is that prime sponsors and communities, in paying for vacation, in paying for pension activity, show another 5 percent that doesn't show up at Treasury and is carried over into the next fiscal year.

The other item that has operated in both this year and last year, as you know, appropriations did not come to the CETA prime sponsors until the end of October.

Chairman MAGNUSON. Now, we have got that settled, it seems to me. I appreciate you need 20 percent when we're faced with this pressure of trying to balance budgets and trying to cut expenditures from year to year.

Mr. GREEN. Mr. Chairman, it has always operated in the range of——

Chairman MAGNUSON. I am not saying that it has operated badly. You want to make some changes, and not of the whole program, but some of these changes we're trying to look at in light of the facts of life. We just can't appropriate money here unless we are going to spend it from year to year.

Mr. GREEN. Yes, sir.

Chairman MAGNUSON. We do the same thing on education. We have to look now at the nitty-gritty of the amounts that we want to appropriate. I just think that 20 percent seems to be too high.

Ms. GOLDING. One thing, sir, what's represented in the new regulations that has not been a rule heretofore, is that we're using a 10-percent margin as a rule for reallocating funds.

In other words, if prime sponsors are planning to carry over in excess of 10 percent, that would mean reallocation.

Chairman MAGNUSON. We'll take a look at that.

REDUCED INVESTIGATIVE STAFF

Senator CHILES. Mr. Secretary, I have listened to your telling me all these things you're putting in play for next year. But then I looked at the budget, and I see that you only have 44 professional staff in your office of investigation and compliance to deal with an $11 billion program, which employs hundreds of thousands of people in almost every city across this country, and at that level represents a cut of 14 positions, 21 percent from the 1978 level.

And you propose another five professionals for investigation and compliance, in 1980. My mind comes from the program impact statement in your own budget justification, and that was at page

44, where you said: "This reduction will materially reduce the efficiency of the office of investigation and compliance capability for investigating those program abuses not normally addressed by the Inspector General." And that's other than those abuses other than criminal fraud.

It's clear that you don't have enough field staff to cover the 50,000 to 70,000 worksites. The only reasonable way to investigate fraud and abuse is from a central investigative unit. Yet, you're cutting back on that central investigative staff, while keeping your program staff the same.

I don't understand the logic of that. I don't see how that jibes with what you have been telling us, everything that has been going down, to do a better job.

Ms. GOLDING. There is some mistake about this.

Mr. GREEN. Overall, as I point out, Senator, the budget, in general——

Senator CHILES. Some mistake in my——

Ms. GOLDING. In the figures that you quoted.

Senator CHILES. I think I am quoting your figures, but I would like to find out.

Senator MATHIAS. One of the useful things about these hearings, if there are misapprehensions about the facts, we can surface them.

INSPECTOR GENERAL

Senator EAGLETON. I see a man standing in the back. He sort of looks like the Inspector General.

Are you the man we have been waiting for?

[No response.]

[Laughter.]

Senator EAGLETON. The Labor Department is at the foot of Capitol Hill. Have we found a breathing body yet from the Office of the Inspector General at the foot of Capitol Hill?

Senator MATHIAS. Here comes somebody with a box.

Senator EAGLETON. Is there any person in the room from the U.S. Department of Labor, Office of Inspector General?

VOICE. No, sir. We will try to find someone.

Senator EAGLETON. It has been over an hour.

Senator CHILES. I told you they're understaffed.

Senator EAGLETON. It's been an hour. We're trying to get somebody from the Inspector General's office at the Department of Labor. You're at the foot of Capitol Hill. You can't find a creature down there that's breathing?

All right, well, I normally manage the Labor budget when Senator Magnuson's gone. I want Senator Chiles to continue his line of inquiry, since we can't get anybody from the Office of the Inspector General. The questions Senator Chiles has are very relevant to whether that department: (a) Has the capacity; (b) the manpower; and (c) the availability to do the kind of work that we want done here.

The question he is pursuing—how many auditors, how many investigators in the Office of the Inspector General—are important, and we can't find one living person from that office.

DEVELOPMENT OF WORK HABITS IN THE SUMMER PROGRAM

Senator CHILES. The second question that I asked the General Accounting Office was whether the summer programs provided have any skill training in employment, since for many of the kids it's their first paying job. The attitude that they develop about things like showing up on time, dress habits and such, affect their ability to get a full-time job when they leave school.

I know that the Department of Labor is also recognizing parts of these aspects in looking at your regulations, but with what I read in the GAO study, those regulations have not been translated into practice. They found that only 53 percent of the urban worksites—and that covered 44 percent of the enrollees—provided enough supervision to develop good work habits.

Looking at some of the kinds of examples that they found—this is on pages 18 and 19 of their report—that at one worksite 20 enrollees reported "present" without being engaged in a useful activity, were playing games among themselves. The supervisor was absent for half an hour.

Another site, 44 enrollees, where the supervisor was absent. Another site of 67 enrollees, where the enrollees arrived an hour late.

One in which the youth was observed sleeping. And one in which there were 27 enrollees, 10 were absent, and they later determined that 8 of the 10 absent enrollees were paid for work that day.

Well, that's all on the basis of improper supervision: There's no one there, or they're not requiring that good work habits be developed.

They did find some sites where there were very good work habits being developed, and they cited that even to dress in one operated by OIC, had a dress code and they arrived on time and everything else. Much better than the public sponsors.

What in the world can we do to see that they get a good work habit ability out of that? Because if they don't, the very thing we're talking about doing with these summer youth programs, we're just going the other way: You don't have to dress to get a job. You don't have to be on time. You don't even have to be present.

Mr. GREEN. Well, on the issue of work habits, labor market experience, these are items that we now again specify the prime sponsor has to address.

Secondly, that those sponsors—and this has been an issue that we have been working hard upon—that have subgrantees that operate very shoddy programs with poor supervision should not be allowed to participate in the program in the following year.

I think that one way to effect that is, of course, to be able to remove the subgrantees or prime sponsors that operate programs, that don't give young people a positive work habit.

In my experience, an ideal kind of program, is one I have recently seen out in Los Angeles operated by the Watts Labor Education Committee, which was engaged in teaching of construction skills and utilizing journeyman craftspeople to assist in that supervision.

I think, again, Senator, we have an opportunity to transfer to the prime sponsors those programs that work well, what a model of that looks like, and to require that they remove the subgrantees that refuse to operate meaningful worksites or projects.

Senator CHILES. But so far you've only removed four of the subgrantees?

Mr. GREEN. We know of four subgrantees only because of investigation involvement. There may be a number of other terminated subgrantees/subcontractors of which we are unaware because of actions taken by prime sponsors. I would have to supply them for the record. But it's obviously been more than that.

Senator CHILES. I wish you would supply that for the record.

[The information follows:]

SUBGRANTEE/SUBCONTRACTOR TERMINATIONS

The Employment and Training Administration—ETA—Departmemt of Labor, undertook a special survey of each prime sponsor in response to the question on the number of terminated subgrantees/subcontractors. Information on subgrantee/subcontractor terminations is not routinely collected by ETA since under the CETA Act and regulations, the selection of delivery agents to provide employment and training services at the local level is the responsibility of the prime sponsor.

Since the beginning of fiscal year 1977, approximately 289 subgrants or subcontracts have been terminated during the period of the subgrant or subcontract by 123 prime sponsors for reasons of mismanagement, poor program performance or other program abuses. The dollar amount of these 289 subgrants or subcontracts totaled $39,828,200.

PRIME SPONSOR PERFORMANCE

Senator CHILES. I note one of the regulations you have adopted is performance as a provision to the use of alternative sponsors. In the case where performance, have you invoked that provision yet, to have an alternative sponsor?

Mr. TAGGART. Yes. In fact, we have—one of the reports we've prepared is a case study of New York City, and it has happened around the country.

Senator CHILES. I would like to have some kind of——

Mr. TAGGART. I think what you're getting at is what is the direction of change and are we progressing.

I think there is a feeling on our part that there are programs that have to be changed. The other evaluations that have been done indicate that the program is not as severe as the GAO report would indicate.

However, it is a very serious problem. But the evaluations also indicate a lot of change in the last summer. And this last year 100 percent of the participants received labor market orientation. The amount in vocational orientation doubled. The number that were in the Department program doubled in the summer.

They're still small proportions, but that is the direction of change. There were great improvements throughout the country in that program.

Case studies of each prime sponsor indicate the same thing. It's an improving program. Again, it is not enough change, and steps are being taken to improve.

Senator CHILES. You're saying it is, if you have, looking at 47 enrollees at urban sites had enough work to do, and only 44 percent had enough supervision, it looks to me like you're spending $44 million, and you're not even getting back 50 percent.

Mr. TAGGART. I would suggest that we very carefully review the GAO methodology. As Assistant Secretary Green has indicated, Newark had a very ineffective program regarding the rating

sample taken in Newark, it was three times the sample taken in Los Angeles, which has a more effective program and has two and a half times more funding than Newark.

And the two sides were added together, and projected on a national basis, suggesting it made up 64 percent of the Nation. There's a weighting problem and a sample problem, which is very severe in the study.

WORK ATTITUDES

Senator CHILES. Your evaluation on page 10, it says: "In terms of the number of youth served, however, this speedy program tends to be the exception."

Mr. TAGGART. Our own evaluations have found critical problems. It is probably like 20 to 25 percent, and that is very serious.

Senator CHILES. If it says good programs tend to be the exception, that doesn't sound like—again you're back to 15 percent.

EVALUATION OF THE SUMMER YOUTH EMPLOYMENT PROGRAM

Senator MATHIAS. Senator Chiles, would you yield on that? Evaluative methodology brings me up. I apologize for interrupting. It's right on this question of attitudes. Mr. Secretary, I want to admit right now—I'm probably being imprecise—but the evaluative methodology that is imposed on me and, I suspect, on Senator Chiles and Senator Eagleton is what we hear at home.

In this Baltimore Proposition 13 Committee I have not only represented the urban programs, represented citizens of the inner city, but I have some representatives of management and people who are going to provide the jobs that hopefully we're training these enrollees to sell.

And I was dismayed and shocked when some of the industry representatives of my committee tell me that they really would prefer to go about the streets than take them out of these programs. They'd rather have them fresh off the street, that the work attitudes are bad when they come out of these programs.

Now, that is an admission or that is evidence of failure. That is very depressing to me. And I cite it to you because that's what's coming to me as the evaluation of the program, and I want to see the program work.

Mr. GREEN. Senator, it is almost the catch-22 situation when, on one hand, we show that, were it not for this program, over half of the minority youth in the country would not have summer jobs. On the other hand, the private sector says that these young people come in with poor work habits if they don't get started at some point.

Senator MATHIAS. But you hear that too.

Mr. GREEN. This is precisely why we began the title VII activity, and the targeted jobs, tax credits. We're attempting to move in a systematic way to involve the private sector in the entire CETA system.

But of these young people that we talk about, these 1,009,300 last year, roughly 55 percent of them were nonwhite, and had it not been for this program, half of them would not have worked at all. And it's almost as if we're blaming the victim for the problem.

I would love to have great involvement of these young people in private sector jobs.

Senator MATHIAS. The GAO doesn't blame the victim. As I read their report, they blame supervision both in the departmental level and at the regional level. They don't blame the victims.

Mr. GREEN. And we would agree with you, Senator, but the supervision under the procedures that we've started, the regulations that we've laid out, require much stronger attention paid to supervision, paid to the quality of the worksite, paid to the linkages to the labor market, paid to giving greater guidance and time and to stimulating a worksite that represents real work.

Senator MATHIAS. I'm trespassing on Senator Chiles' time, but what can be done to stimulate attitude, because, for instance as you know in the GAO report there's an incident described where one group of enrollees were allowed to just sit around idly while the ground was littered with trash and broken glass.

You know, they could have easily just improved their immediate environment, if nothing else. What can be done to stimulate those in immediate charge of groups to have a higher initiative and to have a higher degree of leadership? Do you call people like Jesse Jackson, who has attacked this problem in the school area, have you got a group that's available for consultation?

Mr. GREEN. Yes, sir. With Reverend Jackson and Operation PUSH, we are in discussion stages both formally and informally, as well as with other members of the minority community leadership. Second, I think that one of the important items for this program is to allow year-round planning.

The fault of this program in many communities is that it only gets planned as a summer program and causes problems in the local area in attempting to figure out worksites, kinds of jobs, and to locate supervisors that are able to run the project all the time.

We have built in that year-round planning. We have cut back on the amount of carryover that prime sponsors have built up in this program, and we will require very stringently that, again, each of those subworksites be examined and that the plan and the training of those supervisors—seems to be an important item, who they are and how well they're trained—be done far in advance, so we can assure the integrity of this program.

Mr. TAGGART. Again, sir, the 1978 regulations were the first time that supervisor requirements had to be put in prime sponsor plans. When there had been supervisor training, we have not developed them. But they're just available now. The measure of their effectiveness will be in next year's programs.

Senator EAGLETON. I'm told that we now have with us a representative of the Office of the Inspector General, Mr. Eric Jaon, J-a-o-n. What's your position in the Department?

Mr. JAON. Program analyst.

CANCELLATION OF HEARINGS

Senator EAGLETON. I want Senator Chiles to pursue his questioning. I'm going to cancel all future hearings of the Labor Department budget on CETA programs. I will then schedule, at Senator Chiles' availability and others, a meeting focusing on this subject

matter, not only on youth employment programs, but the other employment programs of the Labor Department as well.

In the interim, I want the Office of Inspector General to go through the GAO report, not only the recent one that Senator Chiles was inquiring about, but other GAO investigative reports that deal with youth programs. I want to go through it very, very thoroughly. I then will schedule GAO to testify.

You have your people up here to hear what they have to say. I'll have the Inspector General at the same time, following subjects back to back, so we can go into these things.

You say it was unfair that we picked Newark. We just happened to pick a bad example. You prefer if we picked Palm Beach, Fla.? This is one of the most disappointing Appropriations Committee meetings I've ever attended. I'm sad to say that, but that's how I feel.

PUBLIC SERVICE EMPLOYMENT ENROLLMENT LEVELS

Senator CHILES. Mr. Chairman, I have a number of questions for the Inspector General. I'll sort of hold those questions until we have a chance to have the Inspector General up here. I do want to touch on the public service employment, the enrollment levels.

Secretary, I'm glad to see that you're implementing the shift of emphasis on the CETA jobs, which Congress mandates, shaving down the cyclical public jobs, increasing the training employment to hardcore unemployed; however, I think you are misinterpreting the intent of the continuing resolution.

While we were negotiating the language of the continuing resolution last October, we were working with a report from your department that there were 715,000 public jobholders. I believe the administration was working with the same figures when you put your budget together last fall, working with that level.

And 12,000 jobs a month or 144,000 jobs a year, we said only phase out of 100 jobs in 1979. And, Senator Eagleton, you remember we had a considerable debate on the floor as to whether I thought they should have 150,000 phased down. Later the wisdom of the Senate changed that to 100,000.

But the chairman of the committee thought we should re-evaluate the situation in explaining this supplemental, and we're now beginning that reevaluation. I'm shocked to find that you are over 100,000 jobs over in your estimate. That means you've allocated over $1 billion more to prime sponsors than that needed to keep the current levels far less, to reduce it by 100,000 jobs.

And I'm shocked in reading your testimony that, even though the total public job enrollment has now gone down to 517,000, you're still talking in terms of 625,000 jobs at the end of fiscal year 1979. Doesn't that mean, instead of reducing slots by 100,000, you'll actually be instructing the local programs to add 108,000 jobs?

Mr. GREEN. Senator, the joint resolution, as I read it, says, "Activities under the Comprehensive Employment and Training Act, except such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by S. 2570, as passed in the House of Representatives."

Senator CHILES. All the report language on both sides of that conference committee did they tell you to cut 100,000 jobs.

Ms. GOLDING. From the levels that we, as our information indicated, had was about 725,000.

OVERESTIMATE OF PUBLIC SERVICE EMPLOYMENT JOBS

Senator CHILES. No, no, from the current rates. You know, do you mean that you can overestimate by 100,000 jobs and tell the Congress that you've got over 100,000 jobs that you in fact don't have, and then we make a cut of 100,000, and you're saying that's from your false figures that you overestimated and not from the true figures that you actually had out there?

Mr. GREEN. No, sir. At the time of the report there were 728,000 individuals reported. That was the end of June figure. That data became available in August.

Senator CHILES. How much did you have in fact? That was your estimate?

Mr. GREEN. That was actual enrollment, sir. That was the actual enrollment as of June.

Senator CHILES. All right. October 15, how much did you in fact have, about 590,000?

Mr. GREEN. October 15, we would have had about 608,000. We were no longer on a month to month report, but quarterly reporting so data were not available until the end of September: The figures showed 608,000.

Senator CHILES. That's 100,000 less than the figures we were giving at the time we were dealing with the conference report on the continuing resolution, but now what I'm saying is, are you telling us that your 100,000—that our 100,000 reduction has to come from the figure, which was in fact wrong, of 750,000? Or should it come from the figure that was in fact the number of jobs you had out there?

In your debate, in the whole theory and the whole focus of the debate was we wanted to cut out jobs. But we didn't want to go fire somebody. We wanted to cut out those jobs by attrition. I was arguing that at least 150,000 jobs would be by attrition, and the other side was arguing, wait a minute. It may be cutting too deep. Maybe 100,000 jobs is all we can go by attrition.

Now, we find out you're really trying to add jobs, because if you add 625,000 jobs, at the end of the year you actually end up with 100,000 more jobs than in fact you have today.

REDUCTION OF COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT

Mr. GREEN. Well, Senator Chiles, we're trying to cut the countercyclical program down.

Ms. GOLDING. The reductions we're talking about averaging 625,000 service years in 1979 would all come in a countercyclical program. The reason we feel we need to maintain the 625,000 level is so we can add the people to the counterstructural program, which we also understand was the intent of the Congress, and to change the emphasis of the public service employment program from the countercyclical, less structured program to the more highly structured program.

Senator CHILES. Well, again, you're going to get in the same situation. You're going to throw so much money out there, and you

just throw it up like mud on the wall, and you're going to have all the problems of starting a program, and you're going to crank it out so fast, that whether there's fraud and abuse and nepotism and whether there's all these other problems, then the public is again going to be completely frustrated and dissatisfied with your program.

Mr. GREEN. Senator, the law itself allows a 6-month transition process from the time the law was enacted, which would be approximately April. Second, the appropriations was passed at the end of October. The money did not get out to the prime sponsors until the middle of the month of November. And the only analogy I can think of, if I were on a job and not paid for 1½ months, how would I live? We asked the prime sponsor to continue employing people without any payment for 1½ months.

Well, what happened was that they didn't fill the jobs. They became vacant. In addition to that, the shortfall tends to be in the title II-D program. That is the one that is not up the 1979 level.

COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT LEVEL

Senator CHILES. Is there any reason why we should be employing people now in the countercyclical program when the intent of the Congress has been clear? You're saying in fact that the local sponsors are not doing that?

Ms. GOLDING. What we are asking them to do is to phase down the title VI programs.

Senator CHILES. Are they in fact, though, now having funds and now with the numbers that you've been talking about using, can they not in fact be out there replacing people in the countercyclical program?

Mr. GREEN. No, the problem is not transferring those people but finding them.

Senator CHILES. I'm not talking about full level. I'm talking about when a person comes off the countercyclical program. Now, are the local prime sponsors not in fact filling that position again with a countercyclical job?

Ms. GOLDING. No. They should not be.

Senator CHILES. They should not be? Are they?

Ms. GOLDING. Not as far as we know. The plans that they have given us show a continual phase-down to a new low level for title VI.

Senator CHILES. What number will you reach? What will be the level of your countercyclical jobs at the end of this hearing?

Ms. GOLDING. 358,000 by the end of fiscal year 1979.

Senator CHILES. Well, that 358,000 is a number that produces 625,000. We're in fact down to 515,000.

Senator MATHIAS. Can you identify that by fiscal year? Fiscal 1979 are we talking about?

Mr. JONES. Yes, sir, we are.

Senator CHILES. Fiscal year, that's right.

Senator MATHIAS. And fiscal 1980 will be about half of that?

Mr. GREEN. Fiscal 1980 will be averaging 546,000 and——

Senator MATHIAS. So it's about half of fiscal 1979?

Mr. GREEN. Yes.

TITLE II-D PUBLIC SERVICE EMPLOYMENT LEVELS

Senator CHILES. You tell me that you're underhiring in your title II-D program right now, and your figures showed in 1979 you'd be at 267,000. In fact, you're not going to be there because you're underhiring?

Mr. GREEN. No, sir. We plan to be at 267,000. The plans show now that those prime sponsors will fill the title II-D program by June.

Senator CHILES. All right. Assume you get there at 267,000. You're not going to go above that?

Mr. GREEN. No, sir.

Senator CHILES. All right. You're at 358,000. You add those two together, and you get 625,000. You in fact have only 515,000.

Ms. GOLDING. But the shortfall is in the title II-D program, the difference between where we are now and 625,000. The difference is in title II-D.

Mr. HEWITT. We started with about 100,000 and it had to be built up during 1979 to 267,000.

Senator CHILES. I bet each one of you you're not going to be at 625,000 by the end of the year.

Mr. GREEN. I'll take you up on it.

PSE LEVELS MANDATED BY THE CONTINUING RESOLUTION

Senator CHILES. I'm going to try to see that you don't get there, as far as the money you left in there, because again I don't think you followed at all the mandate of the second current resolution that you reduce 100,000 jobs.

Find me the language that you reduced them to 625,000.

Ms. GOLDING. The committee report reflects the guidance we were following.

Mr. GREEN. It says:

> The committee agrees with the House language and resolutions specifying that the rate of operations for activities under CETA shall be at the rate of operation not in excess of the current rate, except for the public service jobs, and the title VI should be reduced by approximately 100,000 by September 30, 1979, down to a level of about 625,000 jobs.

Senator CHILES. How do you read a report that says reduced to 625,000, based on incorrect figures that you all are giving us, to allow you to add 100,000 jobs, because that's in effect what you'd be doing. You'd be adding 100,000 jobs. You're only at 515,000 now. I don't see anything in that language that tells us to add that.

Ms. GOLDING. We also interpreted that 625,000 to be service years, years of service to be provided to the people who qualify for public service employment. You're saying jobs, meaning——

Senator CHILES. I'm saying that, if we call from this committee and say we want to determine what the level of jobs should be, tell us how many people you have employed now, you tell us, you give us a number that's 100,000 over, more than 100,000 over. And we then make a cut and say we want you to reduce that 500,000, and if you can turn around and say we're doing it from the level of man years, we're doing it from all of these things, in fact, you're giving everything from a false figure that you gave us, you don't have any credibility.

Mr. GREEN. Senator, the report also directs the Department to implement as rapidly as possible the title II-D program.

Senator CHILES. It was an incorrect figure in October. That wasn't the number. That's what we asked for.

Mr. HEWITT. It didn't turn out to be that.

Mr. JONES. There's a difference. We need to keep a perspective. That was the number of funded jobs that were available at that time. It happened that the prime sponsor behavior dips momentarily.

FISCAL YEAR 1979 LEVEL OF PUBLIC SERVICE JOBS

Senator CHILES. I am listening to a lot of bureaucratic language, but what we were looking for, what I think the Department of Labor knew we were looking for were the numbers of jobs that were out there in October.

As I said, our debate was then how much will attrition lower those jobs from that level? And none of us were thinking about adding 100,000 jobs. Our debate here was will we cut 150,000 jobs or 100,000 jobs? I happened to lose on that. I wanted to cut 150,000 jobs. I think the figures show that would be correct.

But now I find that you're adding 100,000 jobs.

Mr. HEWITT. The countercyclical program was to be cut in the neighborhood of 250,000 jobs from 1978 to 1979. It was the intent of the Congress, as we read it, that they wanted more counterstructural. So that would have to be built up. That's the title II-D program.

LOSS OF CREDIBILITY

Senator CHILES. If you go by your figures, add 100,000, what you're going to do now again is to get that done. You're going to rush that money out there. Those prime sponsors are going to come in. You're going to start improving their reports, looking at them, saying that looks all right, get that money out. We've got to get to that level. And you're going to end up with the same kind of mess. You're going to lose your credibility on this program.

Mr. GREEN. The conference report reads, "The committee directs the Department to implement as rapidly as possible a shift of emphasis in title II providing jobs to the chronically unemployed."

Senator CHILES. Absolutely.

Mr. GREEN. As I indicated, the shortfall is in title II-D, and that is where the program is to be filled.

Senator CHILES. What you're again talking about is the shift would be from the 515,000 jobs, to shift those jobs over to the II-D program. It isn't the shift of adding 100,000 jobs to get yourself up to 625,000 and then throw all of that over into the program as you can. You won't be able to run the program that way.

Mr. JONES. Senator, you should understand that the question you raised was a legitimate one. But the prime sponsor planning system had been put in place back in October, November, and December. It anticipated that activity, and they are already scheduled to move back to the 6-month period. It's not comparable to the hurry up and build it up kind of situation we had before.

So I think you can depend on some continuity from their terms.

Senator CHILES. You know we're talking about now the chronically unemployed. We're not talking about a CETA program where you just can go out there and tell somebody, "Go out there and just hire anybody," as we did when you first opened up CETA. And how in the world can you possibly think that you can make that kind of a shift and do it on any kind of reasonable basis?

The whole reason we're here with a GAO report is past failure. Mr. Secretary, you're telling us we're going to do things better now. I sure hope that's right. We've got different regulations, but then I see you rushing into the same kind of situation, or attempting to, that got us into the problem with summer youth, got us into the problem with CETA countercyclical and unemployment, exact same thing.

It makes sense to slow down and build this thing up on the basis that we can control it and that we can monitor and we can police it. But I don't see you doing that at all. So I don't see any lessons that are being learned.

Mr. GREEN. Senator, I would indicate that both the refocus of the more targeted program of title II-D as well as the oversight gives us greater handles than we've had. In title II-D the requirement of training as well as employment is a far different program from what we operated in the past.

Senator CHILES. I understand you have some questions.

NEED FOR EMPLOYMENT AND TRAINING PROGRAMS

Senator MATHIAS. Let me say, Mr. Secretary, that I hope this morning can be a useful experience for all of us. I take note of the fact that Metro here in Washington the other day advertised for people to come and shovel snow. And just as an indication that this is no golden age in which we're living, they had so many applicants who came to shovel snow, that there were disorders at the subway entrances because so many people needed these jobs.

And anybody that tells me that people won't work if jobs are available just ought to take a lesson from that experience right here in the Nation's Capital, where the situation is better than some other parts of the country.

So there are real hardships that exist in American society today, and there are people who are willing to work. The people that showed up to shovel snow under bitter winter conditions showed up. That's just a sign and a symbol of problems in our economy and our society that these programs might address and might improve if we can make them work right.

I would so much rather see the programs work right. I'd like to see the American taxpayer feel that we're getting a dollar's worth or a dollar and a half's worth for every dollar that's invested, because I think that's the potential. But what Senator Chiles has been saying, I think is absolutely accurate. The dollars will dry up, and that is tragedy when you take into account the real need for the programs that exist.

I think, rather than striking out the 14 year olds from the programs, the programs ought to be operating at such a high degree of effectiveness, the people say, "We want to get kids into that program because it's going to be a better America," rather

than saying, "We'll just lop off the whole age group from eligibility."

VERIFICATION OF ENROLLEE ELIGIBILITY

Let me just turn here for one moment to the question of the findings of the audit of FSE, PSE jobs, which disclosed, among other things, that although residency and family income are available, these factors are rarely verified by either the employment security agencies or by prime sponsors.

You talk about regulations that have been adopted recently that could help cover the verification.

Mr. GREEN. The new statute now requires that the prime sponsor verify the enrollee eligibility. That was one of the items built into the new law and all regulations also.

Senator MATHIAS. Would you agree that 30 percent of the participants that were technically ineligible had family incomes in excess of what was allowable?

Mr. JONES. The biggest element in the ineligibility element is family income. It's also the most difficult to verify from the standpoint of how many members are in the family and what their income is.

Senator MATHIAS. Is the 30-percent figure in the ballpark?

Mr. JONES. I should point out that the total complex of the eligibility criterion goes to residency, unemployment, income, and several other items.

Each one requires judgment in terms of determining eligibility. It's a most difficult program to verify, to use your word, actual eligibility.

We've met with the food stamp people, welfare programs, social security, other agencies, to determine what they've done to try to find ways to do it. For example, in the food stamp program they have 6 months of family income to verify.

To use the word, verification, is wrong. There's no way to verify those figures. We've put into the regulations this year probably the tightest and most comprehensive system that we've ever had, and I would suggest it is tighter than probably any other agency in attempting to determine entire amounts.

INCOME ELIGIBILITY VERIFICATION

Senator MATHIAS. Tell us what your problems are in this area, because they are questions that we all get asked, and we ought to understand your problems. I myself have always resisted the concept of a national identification number that you could be traced through every aspect of your life, if we had such a number, probably.

Mr. JONES. Gets you into a very touchy area. As you know, we can't use Social Security or income tax data.

Senator MATHIAS. I think you ought to make it crystal clear, because the very kind of misunderstandings which Senator Chiles was describing on shortfall on job leads to problems that we don't have to have. We've got enough problems that we have to have that we can't avoid.

And let me say that, although Senator Chiles and I were on opposite sides of that particular issue, I share with him the sense of frustration that the numbers never came across very clearly. Let me ask you this. The audit stated that Forms Preparation Handbook that was issued by the Employment Training Administration, "does not specify the design or the application, and it recommends designing a mandatory standard CETA application form." This falls in the same area.

What sort of comment do you have?

Mr. JONES. Senator, we mandate the content of that form from a federal standpoint, as far as the items that must be collected. We have not offered to mandate the actual form itself. And the reason for that is that most local jurisdictions require additional data to what we require, and to mandate it would proliferate the forms.

But the items that must be collected and checked are mandated and are in the form this year.

Senator MATHIAS. In the same area, the draft regulations for the public service jobs require a review of application between 30 days of the day of enrollment, and the purpose of that review is to determine that the decision to accept the applicant was the right decision, right?

Mr. JONES. Yes. To use your words, to verify the information that was on it in the first place.

Senator MATHIAS. But you can't tell, as far as I can see, the prime sponsor what he's to look for as substantiating information?

Mr. JONES. No. Let me explain. We have a two step process, Senator. The first step is the 30-day review, and the reason for that is quite important. Whatever eligibility problems we've had up to this date have been on the forms themselves, data that was taken that was simply wrong and showed the person to be ineligible. So we know that we can clean up a major portion of our problems just by instituting that 30-day check.

Beyond that, we have another requirement that asks them within a quarter to return a sample number of people, and in that sample they must go back and do in-depth verification. And we have mandated the item there that they will look for.

We've talked about pay stubs, how we would describe how many people were there, called former employers. We have a list that was worked out from several other agencies to verify in depth, a sample number. That's an important listing also, because this will be used by GAO and our own auditors.

Senator MATHIAS. Just one more question. I'd like to go back to the experience that I've had with my Baltimore proposition 13 committee, with the industry representatives, who say that they would often rather pick somebody off the streets rather than out of one of the various programs, Government sponsored.

PERCENT OF PUBLIC SERVICE JOB HOLDERS FINDING UNSUBSIDIZED JOBS

Has the Labor Department made any study of the average length of times that it takes the average public service jobholder to find some sort of unsubsidized job?

Mr. GREEN. We do have some studies.

Mr. JONES. It's a distressing conversation when the figures are quoted, as the Chairman did in the beginning. There are figures of people getting jobs immediately on leaving the program. They're always relatively low, but the major study we have in place would suggest that within 1 month after leaving the program some 53 percent were employed. And within 1 year of that time some 64 percent were employed.

And prior year's studies on the Emergency Employment Act programs showed 60 to 70 percent of those people were employed after 6 months.

Senator MATHIAS. The Appalachian program claims they do a little better than that. I don't recall the figures, but I bring it up simply because it might be useful to that.

Mr. HEWITT. Public service is one approach that hasn't been in that training program, particularly over the last three or four years.

Senator MATHIAS. Good point. Appalachian programs are primarily ——

Mr. GREEN. One of the important parts of the new legislation is this requirement of private industry councils made up of management and labor to impact on how the prime sponsors are providing training, how they look at linkages, and how they move people out. And another factor that's important, because it's the first time we have had it, is the absolute length of time that an enrollee can serve in a public service job.

Senator MATHIAS. When we talk about unsubsidized jobs, is that the public or the private sector?

Mr. JONES. Both, but the higher numbers are in the private sector.

Senator MATHIAS. Do you have any breakdown of those figures?

Mr. JONES. No, I can get that for you.

Senator MATHIAS. Would you supply that for the record?

Mr. JONES. Yes.

[The information follows:]

UNSUBSIDIZED JOBS

Data on public versus private sector employment after termination from the programs are now available from the Continuous Longitudinal Manpower Survey (CLMS) for participants who entered CETA (excluding youth work programs) in fiscal year 1976. Of those employed in the first three months after termination, over 70 percent were working for private employers and less than 30 percent for public employers. By a year after termination, more had gone into private sector jobs. About 80 percent were then in private and about 20 percent in public jobs.

The distribution between public and private jobs varied of course by type of activity. Participants in classroom training and on-the-job training were much more heavily in private employment. About 90 percent of them were working for private employers a year after termination.

Participants in public service employment, on the other hand, more often moved into unsubsidized public jobs, although the majority still went into private employment. In the first months after termination, an estimated 40 to 45 percent got their employment in public agencies and about 55 to 60 percent obtained private employment. By a year after termination, more had gone into private sector jobs, with about a third then working for public agencies and two-thirds for private employers.

Senator MATHIAS. How much work do your regional representatives do with the prime sponsors toward improving the transition process from subsidized to unsubsidized?

Mr. JONES. The transition or placement rates that we have here are one of our key performance levels for our prime sponsors year to year, and we do an in-depth review against some standards, and then we move that on up to a higher level.

I think because of the private industry council and several other things this year, we can look for some distinct improvements in those numbers over the next year.

Senator MATHIAS. Mr. Chairman, I have some further questions both on my own behalf and on the behalf of Senator Schweiker.

Senator CHILES. We have several questions we need to have answered for the record. We request that you have your transcript and your answers back to the committee in 7 days, and if you could do so, we can have those questions.

Senator MATHIAS. I'll submit the balance of my questions in writing.

UNDERENROLLMENT IN THE PUBLIC SERVICE EMPLOYMENT PROGRAM

Senator CHILES. I just wanted to ask you, I notice that the article which was in the AP this February:

> Labor Department has money to create 150,000 are going unfilled because of problems in meeting tougher government rules. The Department blames Congress for the problems, citing delays in the improvement of new financing for the ten million CETA program and tighter eligibility requirements ordered by Congress in an attempt to reduce fraud and other abuses that have plagued the program.

This is a quote.

Congress has made the program somewhat tougher than they want it. Arnold Packer, Assistant Secretary of Labor, said yes. Mr. Packer said that, because of the regulations that we put in, we've made it more difficult or more tougher. Mr. Green, I hope you don't feel that we are handicapping the program by making it more tougher, trying to get fraud and abuse out of it.

Mr. GREEN. No, sir. As you indicate, I was not the one quoted on that, but we don't take that viewpoint.

Senator CHILES. I use Arnold Packer's name because he was a former congressional employee.

Mr. GREEN. No, sir. We don't take that view. We think that the direction that you and the other members wish to see the program move is in a similar vein that we'd like to see, and what we are trying to do with both our final writing that we have and will be before us around April, and second, that a number of items, such as the limits on time, the move to transition, the greater private sector involvement are all going to result in a massive improvement in the program next year.

Senator CHILES. Senator Eagleton said we will have another separate hearing to go into the audit of the Inspector General's. He mentioned a number of youth programs. I would hope that that hearing would be to the fraud and abuse provisions of all of the programs of CETA. I'd like to look at all of these programs, and I'd like to check all our figures, whether my figures are incorrect.

So the subcommittee will stand in recess until 2 o'clock this afternoon.

[Whereupon, at 12:30 p.m., Wednesday, February 21, the subcommittee was recessed, to reconvene at 2 p.m., this same day.]

(AFTERNOON SESSION, 2 P.M., WEDNESDAY, FEBRUARY 21, 1979)

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

LAMOND GODWIN, ADMINISTRATOR, OFFICE OF NATIONAL PROGRAMS

ROBERTS JONES, OFFICE OF COMMUNITY EMPLOYMENT PROGRAMS

WILLIAM HEWITT, ADMINISTRATOR, OFFICE OF POLICY, EVALUATION AND RESEARCH

CAROLYN M. GOLDING, COMPTROLLER FOR EMPLOYMENT AND TRAINING

JIM WALKER, ADMINISTRATOR, OFFICE OF ADMINISTRATION AND BUDGET

WILLIAM FURMAN, ACTING DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator BURDICK. The subcommittee will come to order.

This afternoon we will have the final session examining the fiscal 1980 budget request for the Labor Department employment and training programs. We will also cover the $400 million fiscal year 1979 supplemental request for private sector programs.

Early sessions looked at fraud and abuse in public service jobs and programs for youth and the elderly.

Now, we will hear testimony on general manpower training, national programs, private sector initiatives, and employment security operations.

Mr. Ernie Green, assistant secretary for employment and training programs, is here.

Please go ahead with your prepared statement.

[The statement follows:]

STATEMENT OF ERNEST G. GREEN

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to present the remaining budget requests for the Employment and Training Administration. I would like to discuss briefly each of the requests.

Comprehensive Employment and Training Services

Comprehensive employment and training services are authorized by title II A, B, and C (formerly title I) of the Comprehensive Employment and Training Act, as amended. The funds provide financial assistance, primarily by formula, to about 460 State and local prime sponsors to design and provide comprehensive employment and training services in order to ease the barriers to labor force participation encountered by economically disadvantaged persons and to help them increase their earned income. Activities include institutional and on-the-job training, work experience and other services needed to enable individuals to obtain unsubsidized employment. The request for title II, A, B, and C is $2,054,000,000, and represents an increase of $139,900,000 over the comparable Fiscal Year 1979 level of $1,914,100,000. This amount will maintain 423,700 years of service, the same level projected for 1979. The increase will provide for the higher costs of wages resulting from the minimum wage change from $2.90 an hour to $3.10 an hour effective January 1, 1980.

Private Sector Programs

A major effort will be made in Fiscal Year 1979 to expand job opportunities for the economically disadvantaged in the private sector. To do this, we are requesting a $400,000,000 supplemental appropriation in Fiscal Year 1979 for private sector programs, as authorized under the new title VII of the CETA and for the targeted employment tax credit program established by the Revenue Act of 1978.

The Private Sector Initiative program under title VII of CETA is not only to create training opportunities for the disadvantaged in

the private sector, but also to redirect the CETA system more towards a private sector focus, since five of six jobs are located in the private sector. The ultimate success of employment and training programs depends on whether the programs help participants to obtain permanent jobs at adequate wages in the regular economy. This program will demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community and to increase opportunities for unemployed and underemployed persons who are economically disadvantaged.

The title VII private sector program provides Federal financial assistance, primarily by formula, to about 460 State and local prime sponsors. A total of approximately 80,000 years of service will be provided by the title VII program when the full appropriation is spent.

This program will establish an important new labor market intermediary--the Private Industry Council. These Councils, which will be established in each prime sponsor area, will increase the involvement of local employers, community-based organizations, organized labor and other interested public agencies in the design of employment and training programs in their area. These councils will have a major role in the development and implementation of programs under the new title VII.

In Fiscal Year 1978, 34 prime sponsors received planning grants for pilot projects. They have now completed their planning and are ready to initiate programs. In December all 460 prime sponsors received small planning grants to begin establishing their Councils. They, too, will soon be ready to mount programs.

Programs and services authorized under title VII can include a variety of activities, including institutional and on-the-job training, small business intern programs, cooperative education programs for youth and apprenticeship or comparable high skill training pro-

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grams. Funds may also be used to analyze private sector job opportunities, including estimates by occupation, industry and location, etc. However, it is expected that most program activity will be on-the-job training.

It is important to fulfill this commitment to the business community and CETA prime sponsors as soon as possible. There is a great deal of momentum built-up with employers over the last 18 months in support of this program which we feel should not be allowed to die.

Under the targeted employment tax credit program, tax credits are provided to employers who hire certified workers including disadvantaged youths, disadvantaged Vietnam-era veterans, the handicapped, certain income-transfer recipients, and disadvantaged ex-offenders. The credit in the first year is equal to 50 percent of the first $6,000 in wages and 25 percent of such wages during the second year. It is estimated that credits will be claimed for full-time equivalent employment of 78,000 persons in 1979 and 304,000 in 1980. The program also offers numerous opportunities for linkage with employment service placement activities, regular CETA employability development activities, and the new title VII activities, as well as developmental services provided for non-CETA deliverers to various segments of the target population.

The State Employment Security Agencies will be responsible for certifications and overall management of the program. Local participating agencies, including prime sponsors and welfare offices, will do the eligibility determinations and issue vouchers. Governors and local elected officials such as prime sponsors, will have the prime responsibility for promoting the program, supported by the Private Industry Councils and the Job Service Improvement Program committees, through their existing media outlets. Prime sponsors and other promoters of the program will stress its integration with the other elements of the Administration's private sector emphasis.

An amount, not to exceed eight percent of the total supplemental, will be used for administering the targeted employment tax credit program.

No funds are being requested for private sector programs in Fiscal Year 1980, since the supplemental includes sufficient funding to support operations beyond Fiscal Year 1979. An assessment of the program will be made in Fiscal Year 1980 to allow for the development of recommendations for future activities in this area.

Other National Programs

The request for other national programs is $326,011,000, a net decrease of $45,621,000 from the $371,632,000 available in Fiscal Year 1979.

The request includes $165,861,000 for the title III employment and training program for Native Americans and Indians, and migrants and seasonal farmworkers. This represents an increase of $11,298,000 over the $154,563,000 available in Fiscal Year 1979. The increase represents the estimated impact of the minimum wage legislation. Funding for these programs continues to be linked to the statutory requirements.

A total of $117,740,000 is requested for national programs to provide employment and training assistance and essential supportive services for special population segments as authorized under title III. This represents a decrease of $55,419,000 below the Fiscal Year 1979 level of $173,159,000. The reduction reflects the President's policy to reduce Federal spending. Continued emphasis will be placed on funding legislatively required and Congressionally mandated activities, as well as other national programs of proven effectiveness.

The request for program support activities is for $42,410,000, a decrease of $1,500,000 from the Fiscal Year 1979 level. The decrease represents a transfer to the Bureau of Labor Statistics appropriation in Fiscal year 1980. The $42,410,000 includes $15,010,000 for training

and technical assistance; $11,100,000 for labor market information; and $16,300,000 for research, development and evaluation.

Work Incentives

The Fiscal Year 1980 budget request for the Work Incentive Program (WIN) totals $385,000,000, and provides about the same program level as in Fiscal Year 1979. Of the total, $372,023,000 is requested for Grants to States and $12,977,000 is requested for Federal program direction and evaluation.

During 1980, the Departments of Labor and Health, Education, and Welfare intend to continue their joint administration of a WIN program which emphasizes job placements by exposing to the labor market all persons who register for WIN. The goal is to make as many immediate placements as possible and to actively engage all other registrants in seeking a job. I am pleased to report that in Fiscal Year 1978, 286,404 participants entered employment, exceeding goals by a little more than six percent. I anticipate that entered employments in 1980 will be at least comparable to, if not exceed, the 1978 level.

Grants to States

The budget request for Grants to States for Unemployment Insurance and Employment Services provides an availability of $1,796,600,000 which is an increase of $81,400,000 over the 1979 availability of $1,715,200,000. These funds finance the administrative costs of Unemployment Insurance and Employment Service activities in the State Employment Security agencies.

The budget request for this appropriation reflects the continuing efforts of the State agencies to improve their methods of operation in order to increase the quality of their employment security programs and to provide better services to the nation's jobseekers. The additional productivity expected in 1980, due to management actions and improved automation, will enable the Employment Service to operate efficiently

at the same staffing level as 1979 and limit unemployment insurance staffing increases to those necessitated by new responsibilities and increased unemployment insurance workloads. Although existing sites will be improved, expansion of the Employment Security Automation Project will be suspended in 1980 while evaluations are analyzed to determine what direction and scope future automation efforts should take.

Federal Unemployment Benefits and Allowances

This account finances unemployment compensation to former Federal personnel and trade adjustment assistance allowances to individuals adversely affected by foreign trade agreements. It also provides for reimbursements to States for unemployment benefits paid on the basis of public service employment and for benefits paid under the provisions of the Redwood National Park Expansion Act of 1978. In 1979, this account also provides for reimbursements to States for unemployment benefits paid during a transitional period to workers newly covered under the provisions of the Unemployment Compensation Amendments of 1976. These reimbursements will be phased out for most States after March 31, 1979.

The budget request provides for an availability of $980,000,000 which is an increase of $130,000,000 from the revised 1979 availability of $850,000,000. It consists of an appropriation request of $950,000,000 and a reimbursement from the U.S. Postal Service of $30,000,000.

Advances to the Unemployment Trust Fund and Other Funds

This appropriation provides general revenue advances to several funds or accounts for the purposes authorized under various Federal and State compensation laws whenever the balances in the funds prove insufficient. The 1980 request of $300,000,000 is based upon the anticipated requirements of the Black Lung Disability Trust Fund which is administered by the Employment Standards Administration. They will be testifying on their accounts and will answer any questions you, or members of the Committee, may have regarding the request.

Program Administration

A Fiscal Year 1979 supplemental of $2,079,000 is being requested for the Program Administration to cover the cost of Federal pay increases effective October 8, 1978.

The budget request for Fiscal Year 1980 is $119,341,000 and 3,134 positions. This represents a net decrease of $6,009,000 and 433 positions from the Fiscal Year 1979 adjusted appropriation level of $125,350,000.

It provides for an increase of 24 positions and $366,000 requested for the Private Sector Program to support the President's new initiative to expand job opportunities for the economically disadvantaged in the private sector, and a reduction of 457 positions resulting from the Civil Service Reform Act, which places a temporary limitation on Executive Branch end of year employment, and President Carter's stated goal of limiting Federal employment.

This concludes my statement, Mr. Chairman. I will be happy to answer any questions you, or Members of the Committee, may have.

Biographical Sketch

ERNEST G. GREEN
Assistant Secretary of Labor
for Employment and Training
Employment and Training Administration
Department of Labor

Mr. Green was confirmed as Assistant Secretary of Labor for Employment and Training by the Senate on March 10, 1977. From 1967 until his confirmation, he had been executive director of the Recruitment and Training Program (R-T-P, Inc.), formerly the Joint Apprenticeship Program of the Workers Defense League/A. Philip Randolph Educational Fund, New York City, an organization which recruits minorities for apprenticeship programs. He began with the program in 1964 as a field representative attempting to place black and Puerto Rican young men into the New York City building and construction trade unions as apprentices. Under his leadership as executive

director, the program expanded beyond apprentice training and became actively involved in journeymen upgrading and training. It was also one of the first organizations in the country to develop construction skills training for Model Cities residents.

Born September 22, 1941, Mr. Green is a native of Little Rock, Arkansas. He was the first black to be graduated from Central High School in Little Rock. He received a Bachelor of Arts degree from Michigan State in 1962 and a Master of Arts degree from the same school in 1964.

Mr. Green has received the J.D. Rockefeller Outstanding Public Service Award, the A. Philip Randolph Award of the Negro Trade Union Leadership Council, and the Freedom in America Award of the Workers Defense League. He has also received awards or citations from the U.S. Department of Labor's Bureau of Apprenticeship and Training, the American Federation of Teachers, the Elks, Ebony Magazine, and the New York Post.

LAWRENCE E. WEATHERFORD, JR.
Deputy Assistant Secretary for Employment and Training
Employment and Training Administration
Department of Labor

In November 1978, Mr. Weatherford was appointed to his current position as Deputy Assistant Secretary. He is also Acting Deputy Assistant Secretary for Veterans' Employment.

Mr. Weatherford served in the position of Administrator for Unemployment Insurance in the Employment and Training Administration from May 1974 until he became the Acting Deputy Assistant Secretary for Veterans' Employment in July 1978.

Prior to that Mr. Weatherford was the Assistant Regional Manpower Administrator for Administration and Management in the Atlanta Manpower Regional Office. He was the Assistant Regional Manpower Administrator for Unemployment Insurance Service from November 1962 until March 1972.

He joined the staff of the Atlanta Regional Office as a Social Administration Advisor in November 1958. He was with the Georgia Department of Labor prior to that.

Mr. Weatherford was born on December 24, 1930, in Watkinsville, Georgia. He received his degree from the University of Georgia in 1954. He is married and has three daughters.

He is a Veteran and a Mason. He is a member of the Christian Church.

WILLIAM B. HEWITT
Administrator, Office of Policy, Evaluation & Research
Employment and Training Administration
U.S. Department of Labor

Mr. Hewitt is presently Administrator of the Office of Policy, Evaluation, and Research. He served as Acting Assistant Secretary for Employment and Training, Employment and Training Administration, U.S. Department of Labor from January 31, 1977, until March 10, 1977.

Mr. Hewitt has been in the government since 1951, with the Department of Labor since 1952, as a labor economist, Office of Program Review and Analysis, Bureau of Employment Security. Since that time, he has held various positions in the Department: Community Employment Specialist, U.S. Employment Service, Bureau of Employment Security; Acting Chief, Program Planning and Assistance Division, Office of Manpower Development; Chief, Division of Planning, Manpower Administration; Deputy Associate Manpower Administrator for Policy, Evaluation, and Research, Manpower Administration; and Associate Manpower Administrator for Policy, Evaluation, and Research, Manpower Administration.

Mr. Hewitt received BA and MA degrees in economics from the University of Denver and completed most of the coursework in a doctoral program in economics at American University. He was an enlisted man in the U.S. Navy during World War II.

ROBERT ANDERSON
Administrator
Office of Comprehsensive Employment Development
Employment and Training Administration
Department of Labor

Mr. Anderson has been the Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, since August 1977.

From August 1974 until August 1977 he served as Director of Manpower with the National League of Cities and the U.S. Conference of Mayors. As Director he was responsible for the conduct and administration of four related activities and offices - Manpower, Vocational Education, Youth and Community Economic Development. He began his career with the National League of Cities and U.S. Conference of Mayors in April 1972, as a Senior Policy Analyst.

Prior to that, he served as the Deputy Director of Manpower, City of Newark, Office of the Mayor, Newark, New Jersey from November 1970 to April 1972.

Between July 1967 and November 1970, Mr. Anderson served in various capacities with COPE (Career Oriented Preparation for Employment), in Newark, New Jersey. He started as a group counselor in July 1967 and in June 1968, was reassigned to the position of Senior Job Developer. He was named Acting Deputy Director in February 1969 and Deputy Director in November 1969, which position he held until November 1970.

Mr. Anderson, was born January 13, 1932 and is a native of Newark, New Jersey. He holds an A.B. degree in sociology from Seton Hall University.

His organizational affiliations include: American Society of Clinical Pathology, the National Association of Community Developers, and Citizens for Responsible Government.

CAROLYN M. GOLDING
Comptroller
Office of Administration and Management
Employment and Training Administration
Department of Labor

Carolyn M. Golding is presently the Comptroller for the Employment and Training Administration. Her previous experience in the Department includes assignments as Deputy Associate Regional Administrator in Region IX; Unit Leader on the Welfare Reform Planning Staff; Director Western Regional Operations Staff, Office of Operations Review and Analysis, for the Deputy Manpower Administrator; Analyst, Division of Financial Policies and Systems, Office of the Comptroller; Branch Chief, for Grants to States Appropriations, Bureau of Employment Security; and Management Intern.

On special assignment, Ms. Golding assisted with the special efforts required to implement CETA in 1974 and has received several individual DOL awards.

Ms. Golding did both Graduate and Undergraduate work at Duke University. She was born in Essex County, New Jersey, July 1, 1941. She is married and is a resident of San Francisco.

INTRODUCTION OF ASSOCIATES

Mr. GREEN. Thank you very much, Mr. Chairman.

I would like to make note of additional staff.

Lamond Godwin, who is Administrator of the Office of National Programs; Roberts Jones, from the Office of Community Employment Programs; William Hewitt, Administrator, Office of Policy, Evaluation, and Research; Carolyn Golding, Comptroller for Employment and Training; Jim Walker, who is Administrator of the Office of Administration and Management; and William Furman, who is with the Departmental Budget Office.

Mr. Chairman, earlier I read an overview statment, and we have submitted that for the record and would respond now to questions.

PRIVATE SECTOR PROGRAMS

Senator BURDICK. Why does your budget justification contain only two pages of narrative to describe the new private sector programs that have the biggest and most controversial new initiatives in the Labor Department?

Mr. GREEN. One, in trying to keep brief in our descriptive material, we have limited that, as we have with all of the budget.

Senator BURDICK. Brevity is fine, as long as light comes with it.

Mr. GREEN. And second, the private sector initiatives have begun under our discretionary funding, title III. We began with 34 demonstration sites that we have funded now for better than a year. Those 34 sites allowed us to test out the concept of the private industry councils. The targeted jobs tax credit is an amendment of the tax statute, and we have responsibility for the recruitment and the publicity of it, but the bulk of that program operates through the Treasury.

Senator BURDICK. Is it correct that the targeted jobs tax credit program will cost the Treasury an estimated $600 million in lost revenues?

Ms. GOLDING. That is the official estimate, yes, sir.

Senator BURDICK. Even though you are requesting $400 million in private sector initiatives, it appears that you don't expect the program to exceed a spending level of $150 million during fiscal 1980. What annual sending level eventually do you see this program reaching?

Mr. GREEN. Well, we see the program on a 2-year basis, and since this is new with no experience rate, we would like to come back to the Congress with an item of what the spending rate would be. But presently, there is no experience with this program. It is totally new, and we are simply unable to tell you as accurately as possible.

Ms. GOLDING. We are anticipating that the amount requested for fiscal year 1979 will be sufficient for fiscal years 1979 and 1980. When we are preparing the 1981 budget request, we will look at what the new councils provided in the way of guidance for prime sponsors, the ability of the prime sponsors to incorporate the private sector experience in their mainstream CETA, and we expect that to give us enough material to decide if in the fiscal year 1981 budget we need to request continuing appropriations.

Senator BURDICK. Well, can you give me any better explanation of why your spending level may not exceed $150 million for fiscal 1980?

Ms. GOLDING. I would defer to Mr. Jones on that.

Mr. JONES. I think the problem is, Senator, that we are starting the program whenever the appropriation comes—and spending will be very low in this first year; in the second year, fiscal year 1980, the program will continue to build up and the spending level will increase.

The difficulty is that we don't know, in contracting, through OJT contracts largely—exactly when we will reach a peak of standardized funding which would be carried out from year in and year out. Obviously, we will do that sometime in 1980, but exactly what those outlays will be will be very difficult for us to project until we see how rapidly we can get there. The history of this kind of program is that it is much slower in its initial contracting than it is in the public service employment program or other programs, where you are just enrolling people.

I suspect those numbers will have to be resubmitted and redone as that experience rate comes in. It is not an indication, however, that we simply don't intend to spend the money; it is just difficult to estimate a spending level when you are building up from zero.

BASIS FOR $400 MILLION BUDGET REQUEST

Senator BURDICK. Well, then, to be realistic, why are you requesting $400 million?

Mr. JONES. The difficulty here—and this is a very serious point and a very good point—is that when you initiate a new program and you are going forth with both prime sponsors and with the business community, you have to provide the total funding authority up front so they can plan the program for a given period of time and contract it. If you put out less funds than that, you will simply cut back on the total program size because they will not contract thinking that future money will come sometime down the line.

So, if you want them to operate the program at the $400 million level, which is the administration's request, then we have to tell them up front, that that is how much money that is authorized and they can go ahead and proceed to plan and put those funds under contract. If you don't do that, then we will simply cut back on the size of the program, and that would seriously affect the purposes of the private sector program.

IMPACT OF A RECESSION ON PRIVATE SECTOR PROGRAMS

Senator BURDICK. What impact do you feel a recession would have on the success of the proposed private sector program? If unemployment rises significantly, would it make sense to shift resources back to public service jobs from private sector programs?

Mr. GREEN. We still feel that the private sector program, title VII, would be important. Title II, sections A, B, and C, which deal with training is a significant part of the system. And, as the Secretary has outlined a number of times, we need improved linkages with the private sector. There could be some difficulty with the overall downturn, but, clearly, the system would benefit from having improved linkages with private sector hiring.

Senator BURDICK. What about the second part of the question: If unemployment rises significantly, would it make sense to shift some of the resources back to public service jobs?

Mr. GREEN. Well, the statement, I think, earlier this morning, indicated that if unemployment goes far beyond our estimate, that the administration would consider increasing the title VI PSE activity. But at this point, economic projections are such—and our belief—that we won't have that need.

PRIVATE SECTOR PLACEMENT

Senator BURDICK. In Chicago the CETA prime sponsor apparently assigned 25 percent of its training budget to an organization of business people with tremendous success in expanding private sector placements and reducing administrative costs. Why can't other cities do this on their own with existing CETA appropriations?

Mr. GREEN. Well, sir, the Chicago experience was one of the models that we used on the private sector, the title VII private industry councils. We think it is important to build into the system, not just leave it up to good faith, and we went with the legislative change that requires the prime sponsors to set up pri-

vate industry councils, and we think that they will then emulate the Chicago experience and will be able to see that spread across the country.

MOVEMENT TO UNSUBSIDIZED EMPLOYMENT

Senator BURDICK. The next question has three parts to it: What percent of private sector initiative trainees do you expect will be placed in permanent unsubsidized jobs in the private sector? How does the estimated unit cost per placement in the private sector initiatives program compare with the Employment Services unit cost per placement? And how will job placement efforts be coordinated with the Employment Service, which last year placed nearly 4 million people?

Mr. GREEN. Well, each of these placements will be in the unsubsidized area. We think when the program is fully operable it will result in some 80,000 jobs. We think the average cost will be roughly $4,600 per slot, and that is comparable to our experience now in OJT.

Mr. JONES. I think that cost is consistent with the cost we have in the rest of the program for OJT and how it compares to the Employment Service is considerably higher, but these people are going into an on-the-job training situation instead of direct placement. It is coordinated with the Employment Service in terms of placement, as is the whole CETA program.

In every community throughout the country we have an agreement in place for how the Employment Service and the CETA system will work together to place people in those jobs.

Senator BURDICK. According to my information, the Employment Service cost per placement is about $200. The unit cost of the private sector initiatives program will apparently be about $5,000. You said $4,600?

Mr. JONES. Yes, sir.

Senator BURDICK. That is quite a spread.

Mr. GREEN. I think the issue is: The Employment Service is handling people who are job-ready. This is an area in which individuals are not job-ready. Training as well as other assistance in preparing for the labor market is an important part of that cost.

PRIVATE SECTOR INITIATIVES PILOT PROJECTS

Senator BURDICK. Wouldn't it be better to initially fund a few dozen pilot projects to work the bugs out of the private sector initiatives program before launching into a massive, nationwide program?

Mr. GREEN. Well, we feel, sir, that with the 34 projects that we have funded on the demonstration basis, we now have an experience factor. One of the concerns raised both by the Congress and the public is the interface with CETA and the private employment market. This is a process that the legislation spells out clearly and it needs to occur. We think it best to move on into our program.

And, as I understand the legislation, it doesn't allow us to limit the number of prime sponsors who will receive funding under title VII.

Mr. JONES. Also, I think we should point out that we have engaged the assistance and the support of many, if not all, the national business organizations on a national basis, and they are ready to go and participate in this. And I think if we were to step back to a diminished effort you would lose that support and interest, and that would seriously affect the purposes of the program.

Senator BURDICK. How much would it cost to provide operational funding to the 34 private sector initiatives test projects which you started last May?

Mr. JONES. There is no way, really, to answer that. The funds provided in the law are authorized by formula, and I don't know if you could equate that to just 34 without doing an entire rackup.

Senator BURDICK. Wouldn't it be possible to fund this program under title III?

Mr. JONES. Yes, you could fund a demonstration program under title III, I suspect, but not within available money.

Mr. HEWITT. We can get you, Senator, an estimate of how much of the private sector initiatives program funding would go to those 34 areas by the formula.

Senator BURDICK. Well, that might be helpful.

[The information follows:]

Distribution of title VII funds to the 34 private sector initiatives test projects

Newark, N.J	$1,421,253
Oakland, Cal	953,182
El Paso Consortium, Tex	806,910
St. Louis, Mo	1,148,431
Detroit, Mich	3,199,609
Philadelphia, Pa	3,490,072
Baltimore Consortium, Md	3,025,728
Pittsburgh, Pa	1,118,509
Los Angeles, Calif	5,765,783
Atlanta, Ga	1,240,876
Boston, Mass	1,468,083
Milwaukee County, Wis	1,308,975
King/Snohomish Consortium, Wash	2,560,904
Chicago, Ill	5,852,990
Kansas City Consortium, Mo	1,098,461
San Francisco, Calif	1,643,472
Cincinnati, Ohio	902,753
Cleveland Consortium, Ohio	2,471,439
Santa Clara Valley Consortium, Calif	1,662,073
Denver City/County, Colo	871,374
Memphis Consortium, Tenn	1,086,169
Houston, Tex	1,861,411
Alamo Manpower Consortium, Tex	1,693,911
Birmingham Consortium, Ala	1,054,540
Hudson County Consortium, N.J	1,467,175
Stanislaus County, Calif	704,941
Suffolk Consortium, N.Y	1,908,200
Broward Consortium, Fla	1,585,400
Inland Manpower Association, Calif	2,204,848
Albuquerque Consortium, N. Mex	662,901
Michigan, (balance of State)	3,051,408
Arizona, (balance of State)	1,110,775
North Carolina, (balance of State)	5,435,911
Mississippi, (balance of State)	3,428,428
Total	69,266,895

Senator BURDICK. Senator, do you want to get into the act here?

Senator SCHWEIKER. I have a few questions in this area whenever you have finished this area.

Senator BURDICK. Go ahead, and I will follow.

EFFECTS OF NOT GRANTING THE SUPPLEMENTAL REQUEST

Senator SCHWEIKER. If Congress doesn't make the $400 million available that you are requesting, what impact would this have on the program's credibility in the business community?

Mr. GREEN. We think it would limit severely the processes that we have built with the business community, and it would undermine the process that we have started. I think it would be very detrimental to the program.

Senator SCHWEIKER. Well, if we don't fund portion of it, what will happen to the programs already initiated with prime sponsors in the private sector?

Mr. GREEN. Well, we have advance funded planning activity for each of the prime sponsors out of title III funds. Without the $400 million we would not begin the next process, which is to fund the actual contracts for OJT activity that would result in jobs in the private sector.

Mr. JONES. I think also what it would do, Senator, is the number of prime sponsors who have now come to grips with this program and are ready to bring the private sector into the regular CETA programs would simply step back and you would lose that initiative and that momentum.

NEED FOR SUPPLEMENTAL APPROPRIATION

Senator SCHWEIKER. Why do you need, Mr. Secretary, the supplemental to start the private sector initiative program? I know you have, or I understand you have, $400 million in excess CETA public service jobs funds because of underenrollments, as we have heard, and possibly more than that. Why not simply reprogram the money that is unspent in CETA for this program and avoid a supplemental?

Mr. GREEN. That is a question that, at this time, we do have under consideration, and I am not able to give you an answer. It is a question that we are trying to come to grips with. The administration is trying to make a decision on it, and at the moment I don't have it to supply.

Ms. GOLDING. We do question, though, whether we could do that under the authority of the continuing resolution, since we are still operating under a continuing resolution and not an appropriation this year. Title VII was a new element added in the law, for which we did not have a current level in 1978.

Senator SCHWEIKER. Well, if both appropriations committees gave you the OK, there shouldn't be a problem; should there? This just sort of seems ironic that with hundreds of millions unspent, we're saying let's hold what we haven't spent and ask for another $400 million. And that puts us in a rather awkward position.

Mr. WEATHERFORD. Senator, one of the things that gives us a problem, as I heard Bob Jones use the example: If there were one prime sponsor out there, we could do that; we could take away the $400 million and change it over to the private sector initiative. In

some of the 460 prime sponsors we have, they don't have excess moneys. Some prime sponsors are using up to the limit of what they have in their appropriations, and if we decide to redirect and still follow the formula that's included in title VII, it would mean taking the money away from them for the public service jobs that they have on board.

So, it is a mechanical problem that we have but, nonetheless, one that is real. We have some primes that are up to speed.

Mr. GREEN. It would require going back to reprogram the PSE allocations and then determining what their formula-funded program under title VII would be and to see that we alter that around, but mechanically it would take some time to get that done.

Senator SCHWEIKER. If Congress does not provide the $400 million requested for the private industry councils (PIC's) through a supplemental or otherwise, how would you implement the tax credit program?

Ms. GOLDING. We have provided partial advance funding out of our current title III funding to the State agencies to administer the verification part of the program, the registration, and the placement. We would be unable to provide anything more than that initial funding, and it would have a severe and detrimental effect to the amount of registration and verification we would be able to do under the targeted jobs.

Senator SCHWEIKER. Well, if we provide less than $400 million, does that mean less money then for tax credit jobs?

Ms. GOLDING. Well, the cap language says "up to 8 percent of whatever is provided," unless you alter that language. Our estimates right now are that it would take $25 to $32 million to pay for the administration of that program over the 2-year period, 1979 and 1980.

PRIVATE SECTOR INITIATIVE REGULATIONS

Senator SCHWEIKER. In a Labor Department flyer on the private sector initiative program, it states—and I quote: "Redtape will be kept to a minimum." Yet, the proposed regulations run about five Congressional Record-size pages. I also see that you have developed various types of standards for PIC's to review proposals for other types of Federal funding in the areas they serve. How are you going to keep redtape to a minimum, in view of that?

Mr. GREEN. Well, I suppose that is one of the dilemmas we have. This morning, as we talked about fraud and abuse, the issue that we would like to try and resolve at all levels is to minimize the amount of paperwork. But, clearly, on this one, we think the statute, and what we have built into the process—and Bob Jones and his staff have worked very hard on that—is the minimum that is needed, but certainly we have to hold the programs accountable and to be able to determine that we are spending the public's money well and wisely.

Senator SCHWEIKER. Well, I agree on accountability. I think that's a good partial answer. The only question is: Are we doing better, since we promised we were going to do better? Are we really doing better compared to other limitations?

Mr. GREEN. We have worked very carefully with a number of business groups to try to produce a good OJT product. Bob, do you want to talk a little bit about that?

Mr. JONES. I think there are two or three things that are significantly different, Senator. No. 1, those regulations you refer to have been carefully worked out with the business community and the prime sponsor community and are perceived out there as a significant step forward in reducing the complexity and the requirements that are in most of our regulations.

Second, as the Secretary indicates, we have undergone publicly, with the participation of the business community, the labor unions, and the community-based organizations throughout the country, a complete revision of our OJT contracting procedures, which is embodied currently in the published draft CETA regulations for this year. It represents a significant change in how the Government is going to do business on a local level, and addresses specifically some of the problems with auditors and other kinds of review procedures that businesses have had in the past.

And, in addition to that, I think the regulations are structured for the private sector councils and suggest simplicity in the way that the council, from a business standpoint, can be structured, set up, and operated with a very minimum of redtape in terms of their relationship with the Federal Government.

That doesn't address, I should point out, the one problem we continue to have, in that local jurisdictions, local cities or counties or governments put on their own requirements which very often are more complex than those of the Federal Government, and we have difficulty with that.

Senator SCHWEIKER. I have one more on this subject, Mr. Chairman, if I might.

Senator BURDICK. Fine.

CONFLICT BETWEEN PIC AND PRIME SPONSOR

Senator SCHWEIKER. The pending regulations for PIC's put a lot of emphasis on the role of the prime sponsor in setting up a PIC, in appointing PIC members, and passing on staff appointments. Won't this dominance by the prime sponsor put the PIC in a subordinate and possibly leaderless role and raise questions about its ability to do its job? For example, is there a danger that because of the tendency to appoint members to a PIC, the prime sponsors will pick business people they favor rather than those who are really representative of the local business community? And how do we avoid that, an obvious potential for some conflict of interest?

Mr. GREEN. Well, we have been working very hard, using NAB, the conference board, the Chamber, NAM, and other business groups to help us identify in these local areas people that tend to be representative, not just handpicked by that local prime sponsor.

However, the statute does spell out—and Bob Jones can add on if he wants to—the statute does spell out that the prime sponsor is the person responsible for the overall operation of the PIC. What we have attempted to work at the local level is to have that locally elected official, board of supervisors or whoever, identify a wide range of people in that community.

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Second, it does require labor input. It does require people out in the vocational community, as well as CBO's to be included in that. And this representation would reflect that local labor market. The experience under the 34 demonstration sites is that we can achieve that.

It is difficult in some areas, but in most of them we expect to have a representative body that reflects the business interests, both small and large business, because a big portion of this, if it is to be successful, is to include small- and medium-size businesses to do the OJT work with the CETA system.

Senator SCHWEICKER. Thank you, Mr. Chairman.

AMOUNT SPENT FOR ON-THE-JOB TRAINING

Senator BURDICK. How much is being spent now for on-the-job training projects in private industry?

Mr. GREEN. Mr. Chairman, it was over $250 million in fiscal year 1980.

Senator BURDICK. Why couldn't part or all of these resources be earmarked for a private sector initiatives program reducing the need for new appropriations?

Mr. GREEN. Well, we believe fundamentally that the amount of OJT activity is too low at the $250 million, and that a separate private sector program at the requested level provides increased emphasis on transitioning people from training into jobs and providing a closer interface between the private sector and our training system.

Mr. JONES. Also, I think, Senator, it's very important to point out that the private sector initiative program, title VII of the legislation, was set up and contemplated to be funded on a separate basis and insure the business community some oversight directly over that money and participation in that money, in order to bring them to participate in the CETA program.

They don't really have the ability to go into the main line title II CETA program and pull money out and set it aside, not in accord with the current legislation. And I think that will begin to diminish your efforts if you did that.

Mr. HEWITT. I would only add that the reason for setting up title VII in that fashion was to see if we could provide a voice for the business community in the allocation of that amount of resources, and, if it is successful, we would envision the same kind of relationship through all the CETA programs in the years on into the future, and really build the private sector in as a partner with local government in the employment and training area.

JOBS CREATED BY TARGETED JOBS TAX CREDIT LEGISLATION

Senator BURDICK. How many jobs do you expect will be made available during fiscal year 1978 to disadvantaged persons as a result of recent jobs tax credit legislation?

Mr. GREEN. I think in total it is about 300,000, including the disadvantaged sir.

Senator BURDICK. What do you expect this program will cost in terms of reduced tax revenues during fiscal 1980?

Mr. GREEN. About $600 million.

Senator BURDICK. That's loss of revenue?

Mr. GREEN. Yes. I think there is also an offset, and I would have to supply that for the record. It would be an offset in unemployment insurance, an offset also in other income transfers and moving these people into full-time employment, and also the offset with them becoming taxpayers.

Senator BURDICK. That's down the road, though.

Mr. JONES. It is during that same year, though.

Senator BURDICK. Well, if you've got that, supply it. It would be kind of iffy, wouldn't it?

Mr. GREEN. It is the first time we have targeted this program as tightly as we have. It does represent a new effort and it would be our estimate at this point.

[The information follows:]

Offsets on tax credit revenue

	Millions
Additional income taxes paid	$8
Additional social security taxes paid	29
Reduced aid to families with dependent children	12
Reduced food stamps payments	17
Reduced medicaid	9
Total offsets	75

EMPLOYER TAX CREDITS

Senator BURDICK. Well, this probably goes to the basic legislation, but I will ask it anyway: What is to prevent employers from claiming tax credits for persons they would have hired anyway?

Mr. HEWITT. As a matter of fact, the estimates assume that some of that will go on, that some of the people that will be hired would have been hired anyway. But our estimate is that probably 100,000 net jobs would be created by this. That is a fairly conservative estimate. And a number of European countries have had what in effect are wage subsidy schemes. They don't use necessarily their tax system.

The untargeted tax credit program over the last two years, according to the first years' returns, had a job creation effect of approximately 20 percent. And that was a new program and not very well understood, and most people filed for it after the year was over rather than letting it influence their behavior. So that there will undoubtedly be some substitution or the counterpart of substitution in the private sector job creation program, just like there has been in the public sector job creation program.

And we think that even if it is fairly high, it will be a cost-effective way of providing job opportunities for this population.

EMPLOYEE DISPLACEMENT

Senator BURDICK. To what extent do you expect businesses will displace employees who don't qualify for the tax credit with new hires who are eligible? Is anybody going to lose jobs?

Mr. HEWITT. We would not expect so. There are considerable costs of recruiting and breaking in and bringing new workers into the workplace.

Mr. GREEN. And the tax credit only occurs at the end of the year, so that one would have to do a great deal of displacement to get a gain from it. So we expect that not to be one of our problems.

Mr. JONES. I think the bigger problem is to get the businessmen to hire economically disadvantaged people up front, period. That has been the history. There hasn't been much difficulty on the other side.

ADMINISTRATION OF TARGETED JOBS TAX CREDIT PROGRAM

Senator BURDICK. Who will administer this program, and what is the cost of it?

Mr. GREEN. The administration of it will occur, at least the monitoring and the determination of who is eligible, will occur with our State employment security agencies working through prime sponsors and other outlets as a possible referral source. But the Department of Treasury oversees the entire program, and we are handling the ancillary parts.

Mr. JONES. I think it is important to understand that the tax credit program will be operated through currently existing systems. The U.S. Employment Service will be the manager of it, with the CETA system as well as the welfare system and the veterans organizations and other groups, schools, will all be making referrals under the current system. And as a result of that—one of your questions is that—there is very little cost, added cost, for the administration of that program, since they are referring people who are their current clients, hopefully, into a one-step process, and the employers simply claim the tax credit. And the overhead, the 8 percent that we talked about, is the only cost involved in the administration of the program.

That is probably the first time you have mounted a program like that in the history of the Government for that few dollars in terms of administrative overhead.

Senator BURDICK. If the Employment Service is to be the key agency administering the targeted employment tax credit program, why not set-aside a specific amount, appropriate it directly to the Employment Service, rather than earmarking 8 percent of the $400 million requested for private sector initiatives?

Mr. GREEN. Well, this would become, in essence, a set-aside to the grants agencies. And this additional activity, we deem, would be satisfied through this and not necessary with a direct grant to the agencies.

Senator BURDICK. In other words, you're saying it wouldn't save any money by doing it the other way?

Mr. GREEN. No, it would not.

WELFARE REFORM DEMONSTRATION PROJECTS

Senator BURDICK. Your budget justification states, with respect to the $175 million being requested for a welfare reform demonstration program, that: "A final plan for expenditure of these funds is being developed which will be consistent with welfare reform legislation which will soon be transmitted to Congress."

When will welfare reform legislation be transmitted to Congress? Why should we approve $175 million for a program for which the

details have apparently not been worked out? And what details can you tell us about the nature of your proposed welfare reform demonstration program?

Mr. GREEN. We are using the title II-D discretionary money. The other item is, though, that the legislation allows funds under PSE title II-D to concentrate efforts on our welfare population, and this is consistent with the new legislation, as well as an attempt to see what things specifically we need to do to insure that welfare participants can come into the work force using PSE as a process.

Senator BURDICK. But we have not got the welfare legislation approved.

Mr. GREEN. We expect to send the welfare legislation up sometime during this session. There is no date. I'm sure that the Secretary, when he speaks on the overview at the end of your hearings, will address himself to that. But at this moment, I don't have the specific date.

Senator BURDICK. Are you saying that this Congress will have a welfare reform bill out and passed by the time the appropriations comes in?

Mr. GREEN. No, sir. I'm saying that the new CETA legislation allows the prime sponsors to use welfare participants as a significant segment that they should serve. In fact, it waives the period of unemployment as a means of moving them into the PSE project.

The 15 welfare reform demonstration sites are being operated under the PSE discretionary funding, and those 15 prime sponsors are merely working in concert with the Department in trying to determine how best to move welfare participants into unsubsidized jobs, using PSE as that model.

OIC ADMINISTRATIVE COST

Senator BURDICK. According to a recent press report, Opportunity Industrialization Centers spent two out of every five dollars for administration. Federal officials were reported as saying this was twice what the law allows.

Exactly how much CETA funding do Opportunity Industrialization Centers receive, and what percent is spent for administration? Are OIC administrative costs within what the law allows? And how do OIC administrative costs compare with other CETA job training organizations?

Mr. GREEN. I would have to supply that for the record, sir. I don't have OIC's program activity in terms of how many prime sponsors are funding them, or what their administrative costs are. But I will get it for the record.

Mr. JONES. But I think we can say for the record that the overall title II program, which is where most of your OICs are funded from, establish 20 percent administrative requirements, and on a nationwide basis I'm sure that they are within that limit. There may be one or two within some jurisdictions that have exceeded that. I don't have the press article you referred to. But by and large, they are not running inordinately higher than are the rest of the systems anyplace.

Ms. GOLDING. Administrative costs for title II as a whole, whether it includes whatever proportion of OIC, makes up 17.6 percent, well under the target.

[The information follows:]

OIC FUNDING AND ADMINISTRATIVE COSTS

While the national headquarters of Opportunity Industrialization Centers (OIC) has a small number of funding agreements directly with the Departments of Labor, the vast bulk of CETA resources that are utilized by the OIC network are channelled to its local affiliates by State and local prime sponsors. A special survey we conducted recently indicated that in fiscal year 1978, 133 local OIC affiliates (i.e., centers) received project subgrants and contracts from prime sponsors in a total amount exceeding $70 million. Unfortunately, the nature of our CETA reporting system is not such that we obtain specific information about project budgets that are agreed to by the prime sponsors and their subgrantees and contractors. While there are undoubtedly individual OIC affiliates whose funding agreements with the prime sponsors provide for above-average administrative expenses, the overall effectiveness of the OIC network, including effectiveness in terms of cost, is suggested by the continuing, prominent role played by its local affiliates in the decentralized CETA system.

Senator BURDICK. Well, I have here a newspaper called the Times-Herald of Newport News and Hampton, Va., and the story quotes and says: "OIC, a Philadelphia-based training organization, spent two out of every five CETA dollars for administration, twice what the law allows, according to Federal officials."

Senator SCHWEICKER. Do they cite a source?

Senator BURDICK. I don't know. The source is Malcolm N. Harter, who wrote the story.

Mr. HEWITT. There aren't any Federal officials in Newport News.

Senator SCHWEICKER. That's contradictory to everything I've heard.

Mr. JONES. I think that would not be consistent with OIC on a nationwide basis at all.

Senator SCHWEICKER. In fact, you'll find they have one of the lowest job training costs per trainee of any of them.

Senator BURDICK. I don't intend, in this court of law, that this is the best evidence.

Is there any light that you could throw on this in the future?

Mr. GREEN. We could check into the Newport News situation. But as the staff has indicated, the overall costs of our administration is below the 20 percent, around 17.6, and that OIC does have a history of operating the program very well. So this would be unusual.

Senator BURDICK. You're satisfied your books will sustain that you're not spending more than 20 percent?

Mr. GREEN. Yes, sir.

Senator SCHWEICKER. I have a question or two that ties in here.

Senator BURDICK. Go right ahead.

[The letter follows:]

OIC GOVERNMENT RELATIONS,
Washington, D.C., March 28, 1979.

Hon. WARREN MAGNUSON,
Chairman of the Senate Appropriations Committee,
U.S. Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: I am writing to inform you of the inaccuracy and false picture that has been presented to the committee regarding overhead costs in OIC operations.

It has been brought to my attention that an Associated Press report from Mr. Malcolm Carter was included in the briefing materials for the Democrat members of the committee.

Having read the material and the questions that were asked during the hearings regarding this issue, I want to go on record stating categorically and unequivocably that the reference is not to national OIC operations as implied and that the local operations in New Orleans, which was the subject of the reporter's investigation, had not been given an opportunity to provide accurate information before the article was written.

Our national Director, Mr. Elton Jolly, regards the use of this material to provide data for your committee as irresponsible.

It is important for you and the members of your committee to know that our internal investigation reveals that the New Orleans OIC director, in later conversations with the Associated Press reporter, gave him the accurate information, and that this happened long before the data appeared in the material presented to your committee members.

There are two basic points that the Committee on Labor-HEW Appropriations needs to know as far as criteria for evaluating demonstrated effectiveness is concerned:

1. The cost per placement is the statistic that must be examined, since the objective of the Congress is a cost effective system of recruiting counseling, training and placing on jobs, those who are hard to employ because they lack marketable skills;

2. The costs of operations are broken down into: (*a*) Administrative costs; (*b*) Training costs; and (*c*) Costs of supportive services.

The false picture that was painted by the report: 38 percent Administrative costs on a $240,000 budget included costs that should have been attributed to supportive services.

For example, a lead counselor may give 10 percent of his time to supervisory functions considered "administrative." If 100 percent of his salary is counted, whereas 90 percent should have been charged to "supportive services," a false picture is given.

The problem according to our New Orleans staff: Reliance on a secondary source of information did not get all of the facts.

With reference to this particular case, even if we were to assume that New Orleans OIC did have excessive administrative costs, the report is not accurate when it makes OIC Nationally the scapegoat. OIC Nationally has an outstanding record of maintaining a less than 20 percent administrative costs standard with some OIC's reporting less than 10 percent.

When you consider that approximately 100 million dollars is being administered and that only a $240,000 budget is involved in the report, the record is in OIC's favor.

Nevertheless, since the issue has been revised, we would welcome the opportunity to have Dr. Sullivan testify before the committee, not to defend the record, but to advocate legislative action that would correct the wrongs that are jeopardizing the success of the CETA program and the legislative intent of CETA legislation. Uniform standards and criteria for evaluation as well as clear definitions of categories that are being evaluated are essential.

May we consider this letter a request for an opportunity to testify?

Thank you for your consideration.

Sincerely,

(Rev.) MAURICE A. DAWKINS,
Director of Government Relations,
OIC of America.

INVOLVEMENT OF OTHER COMMUNITY BASED ORGANIZATIONS

Senator SCHWEICKER. On this national program, where you are setting up your PIC's and you have your urban leagues and your OICs and your Spanish-speaking centers, what kind of potential conflict or potential cooperation are we getting in this area?

Mr. GREEN. I think we are getting into an expanded area——

Senator SCHWEICKER. Let me restate it. In other words, how will the national programs currently in existence mesh with the PIC program?

Mr. GREEN. Well, one is my expectation that in many of these areas, the Urban League and OIC and others will continue to operate OJT activity. This will not take that away from them.

Second, the legislation spells out the inclusion of CBOs in the PIC council, and we would expect that in many of these communities, that the Urban League and OIC and others will be represented on these PIC councils. So, one, this represents an expansion of the amount of money that we would direct to OJT activity, and, second, because of the history of many of these organizations, they would continue to expand their efforts in OJT contracting and institutional training, et cetera.

Mr. JONES. Senator, those organizations, the primary ones you have mentioned, have been participating with us in the implementation of the title VII program.

Senator SCHWEICKER. That was what I understood.

Mr. JONES. They've worked with us on the regulations and on our conferences and in every respect.

REDUCTION IN NATIONAL PROGRAM FUNDING

Senator SCHWEICKER. The other question I had—I noticed in your budget that you have cut some national program funding, from $370 million down to $326 million. And I guess my biggest question is why are we making this $44 million cut, and was this a cut which you recommended to OMB or was this OMB's cut?

Mr. GREEN. Well, first let me answer the broader picture. One, this reflects the President's budget and, as indicated in other places, it represents an austere approach, one in which we are committed to curb inflation.

Second, it represents my budget as well as the Department's, and I think that the $55 million reduction in national programs does not remove any of our responsibility to serve the significant population segments. So that we expect to have no lessening of the groups that are served under title III, but under our national program account this was another one of the areas where we had to simply tighten our belts.

Senator SCHWEICKER. But in the budget submitted by the administration, was this a recommendation of the Department or was it an OMB cut?

Mr. GREEN. It was an OMB cut. The Department did recommend a higher budget, but that was true in a number of areas.

Senator SCHWEICKER. Do we know what the impact or the effect of that cut will be on your Spanish-speaking community training and your OIC and your Urban League funding?

Mr. GREEN. We have not allocated the fiscal year 1980 title III or other national program strategies. We do anticipate, of course, as you indicate, that there would be a reduction. But the overall spending strategy hasn't been drawn up yet. We don't know.

APPRENTICESHIP OUTREACH AND NATIONAL OJT PROGRAMS

Senator BURDICK. Why does the Department continue to request funding of the apprenticeship outreach and construction-related national on-the-job training program, in view of high unemployment in the construction industry and limited apprenticeship opportunities?

Mr. GREEN. Well, we think, one, that the total apprenticeship numbers have held fairly constant over the last 7 to 8 years.

Second, that this is a means of the Department fulfilling its obligation in terms of apprenticeship opportunities for women and minorities.

Third, that the apprenticeship system, small though it is, is an important part in terms of good jobs. Both labor and management have worked very closely with this program and it has proven to be fairly successful in terms of its placement, of its ability to assist young people to stay on the job, and of the final return as finished crafts persons.

Senator BURDICK. Well, I've heard the charge made many times that we spend an awful lot of money training people for which there are no jobs.

Mr. JONES. On the apprenticeship area, Mr. Chairman, the experience has been that those individuals move into good jobs. As you know, the apprenticeship system starts with an individual as soon as he or she is selected as an apprentice into a construction job or to a skilled job, and that the entry level wages for most of these skilled jobs as apprentices are fairly good. Some of them—most of them—are in excess of $3.50 or $4 an hour as a beginning wage. So that this ranks the apprenticeship system and the skills training area as one of our better interfaces in terms of moving young people into full-time jobs.

REDUCTIONS IN STRUCTURAL UNEMPLOYMENT

Senator BURDICK. This is just a general question. To what extent are we making any progress with the structurally unemployed?

Mr. GREEN. Last year, looking at the data and the characteristics, one, overall unemployment among blacks, among black teenagers, black males, came down. I think that overall unemployment among black males over 20 is now about 7.8 percent. Among blacks in general, it is 11 percent. Among black teenagers, it is 32 percent for last month's figures.

And we have been able to demonstrate that our CETA activity has played an important role in reducing that unemployment rate. I think that as Congress and the administration target in more of the CETA participants to the structurally unemployed or to the disadvantaged, further reductions will be made. And now, as you know, in title II-D PSE, as well as the other parts of title II, economically disadvantaged are written into the law, and we expect that to be 100 percent economically disadvantaged in our 1980 figures.

Mr. HEWITT. One might add, then, that for the first time in approaching 20 years, in the last 18 months the labor force participation rates of black youth, black males particularly, has turned up, which we accept as a sign that there is more hope, and that

increasing numbers in the labor force of the total population has made it more difficult to make more dramatic cuts in unemployment. But nonetheless, it is a good sign, because these programs are attracting and are providing reasonable hope for these young people, that they can indeed get into the labor market. And in fact, our programs account for something like half of the increase in employment over the last year among minority youth.

Senator BURDICK. Well, I have a special reason for asking the question. I handled the public works legislation in the last Congress, and the President sent down a request, at least almost a request, for an LIBW program to attack the same problem.

I don't want to put you in a bind here as to which program would do the most good, but are you really attacking the problem through your program?

Mr. GREEN. One of the things—and this gives me a chance to talk about our linkages with EDA and with HUD—there is a section of the CETA legislation, I think it is 318, that refers to economic development linkages. And we expect to announce very shortly a series of agreements between HUD, EDA, and utilizing CETA as a major interface both in determining how they give their projects points, using CETA as a referral, and in allowing use of discretionary money from all of the agencies to bring about greater usage of public works or of the capital construction activity and the utilization of the CETA participants. And in working through the President's committee that Jack Watson heads up, we have moved now to a point where we think we have a series of working agreements between the EDA, SBA, HUD, and the other Federal agencies, to get a greater use of CETA participants.

REGULATIONS ON COMMUNITY BASED ORGANIZATIONS

Senator SCHWEIKER. Mr. Secretary, I've been concerned with the Deparment's failure to implement my CETA amendment requiring prime sponsors to give special consideration to community based organizations that demonstrate effectiveness.

My specific concerns are these: One, your definition of demonstrated effectiveness is not tough enough to screen out many small and less experienced local community based organizations to insure priority for the most effective groups. Your proposed regulation seem to require only a minimal showing of competency, but the one that I recommended to you requires that the applicant, among other things, have "a clearly demonstrable record of successful and effective delivery of employment and training or other related services."

It also asks for performance information regarding participants. I think that is exactly what the language that I put in the Congressional Record on legislative intent implied when we adopted the amendment in the Human Resources Committee.

Mr. GREEN. In developing our CETA regulations—we have finished the comment period and will publish the final regulations in about 1½ months. We have had, obviously, Senator, a great deal of discussion with many of the community based groups.

We've held discussions with them in a formal manner. Groups that deal with older citizens, though I see Urban League and

others, to get as much comment back on that. Bob Jones on the staff has been working on those comments.

Mr. JONES. I think that, No. 1, the whole system we have established for providing special consideration is one again, Senator, that was worked out with the CBO group on a nationwide basis with their participation and involvement. And it makes several very significant changes in our current system and establishes now for the first time that these community based organizations will be involved at their request in the CETA program, and that in the local community every year on a formal basis, and we have set up a system that mandates that that take place.

Now, in regard to your comment about the words "demonstrated effectivess," I think we need to be careful at this point that we don't write a definition that precludes programs of demonstrated effectiveness in other human resource areas.

There are a large number of organizations on a local basis, not necessarily national, who are proven in their capabilities to deliver programs to various segments of that community and who would sue for some participation in the CETA program. And all we are dealing with here is a concept of do they get considered or get special consideration or not.

And I think it has been our general approach to try to keep the definition to the point where some of those organizations could be involved. Your point of using performance standards is well accepted. The prime sponsor is the man who makes the decision on a local basis. He will use last year's performance in almost every case throughout the country in making that determination.

CLARIFICATION OF DEMONSTRATED EFFECTIVENESS CRITERIA

Senator SCHWEIKER. Well, we had quite a discussion, I might say, in our Labor and Human Resources Committee on this, and we got some very clear-cut intent. I quoted that in committee, on the floor and in the conference between the House and Senate. I served on all three and honestly can't agree because we say demonstrated effectiveness, and yet the definition says a program which has performed effectively in the prime sponsor's or some other jurisdiction.

I honestly don't think that is as strong a definition as we described in establishing the legislative intent of the amendment. We sent you a copy of our language on intent. The definition that we worked out demonstrated effectiveness means a clearly demonstrable record of successful and effective delivery of employment and training and other related services; a determination of demonstrated effectiveness shall be based on performance information regarding such services and activities delivered in the past, such as that required by section 672.22(c)(2), et cetera.

And I think the whole idea was to have a record, whether it was a national or a local record, that they could demonstrate upon.

Mr. GREEN. Well, Senator, in terms of community based organizations, there is one we have in the projects under PSE and others that have been new entrants as performers of community based groups.

Take the area of organizations for the handicapped—who are handicapped themselves. We have not had much experience with such organizations operating these programs. And we barred anybody who did not previously operate a program. And many of the handicapped groups could not participate. It is our attempt to limit that of course to those who have an effective manner to deliver the services.

But a capacity issue we face at the local level is from time to time there are groups or organizations that have not operated a program but do have an interest and do have the ability and do have some hold on the local labor market, and to restrict them, it would seem to me, would be to bar an organization that could make a real contribution to employment.

Senator SCHWEIKER. Let me say that my language, I would think, doesn't restrict them if they have that kind of a record, No. 1. And No. 2, I don't think any of the programs we are talking about basically directs its thrust primarily at the handicapped, so obviously any handicapped group that comes in obviously should be considered.

I see nothing inconsistent with considering especially handicapped training programs. I would not say that that is an issue because the Urban League and SER and others don't per se train handicapped, but I don't see that they are inconsistent.

Mr. JONES. I don't think that there is any philosophical difference, Senator, between your language and ours. As the Secretary points out, it is open for comment and discussion. We have worked this out with some of the large community based organizations, and we will be sitting down in the next few weeks going through it in some detail.

Senator SCHWEIKER. But they're the ones coming to me saying they're not satisfied with it. I don't question your good faith. I think you have demonstrated very good faith. I think you have tried to do it, but they are the same ones who are telling me that they are not too happy.

Mr. JONES. I would point out that one of the concerns we have to watch out for is that some of the ones who have traditionally been in the business would obviously want the language as hard as they can get it. It protects their participation in the program, and we have responsibility here also to cover some of these other organizations who are serving human resource needs in that community and have not had that opportunity.

So there is an attempt to broaden the definition from that standpoint. But that will be reviewed again as we sit down with these people in the next few weeks.

Senator SCHWEIKER. Well, I concur in that, and I also concur that just because you have a national group doesn't mean you should look at a local group as to whether it is as effective as a national group is. I think you should have that preregotive and you should have that responsibility and granted any of these national groups may have weak local situations.

And I think you are right, certainly, to take that into consideration.

Well, OK. I have spent enough time on that. Thank you, Mr. Chairman.

EMPLOYMENT SECURITY AUTOMATED SYSTEMS

Senator BURDICK. How much is in the 1980 budget to implement automated employment security systems, a project which GAO recomends be halted?

Mr. GREEN. I'm going to ask Jim Walker, the Administrator of our Office of Administration and Management to answer that.

Mr. WALKER. I believe we have $20 million.

Senator BURDICK. How much was cut by OMB from your request, and what will be the impact of this reduction?

Mr. WALKER. Our request was basically, I believe, Senator, to maintain the current level. I would have to provide the precise number for the record on the amount.

[The information follows:]

EMPLOYMENT SECURITY AUTOMATED SYSTEMS CUT

The Department's request to OMB was $49 million to maintain the anticipated current level and to complete evaluation and redesign efforts. The reduction of $29 million between our request to OMB and the amount in the 1980 budget is the result of re-estimates of the amount required for these activities. Our original request was based on providing continuing or mortgage costs for 29 States in 1980 whereas based on current implementation status, only 24 States will require mortgage costs. In addition, evaluation and redesign activities are now expected to be further along by the end of 1979 than originally anticipated, thereby lowering the 1980 requirements for completion.

Mr. WALKER. Frankly, as GAO indicated in their report, during the past year we uncovered some problems that we were having implementing the automated systems. We have isolated those problems. It is now our responsibility to get the solutions to them and then to proceed with the implementation of automation in the employment security agencies where it is clearly essential and cost saving and increases productivity.

The course that we have set in the 1980 budget will maintain the States where we have implemented those programs, but until we are ready, until we have got the solution to the problems that we have isolated, we are not suggesting that we expand that program any further.

EFFECTIVENESS OF COMPUTERIZED JOB MATCHING

Senator BURDICK. What evidence is there that the computerized job matching is an effective way to find jobs for people and people for jobs? Do you have enough experience to indicate that it does any good?

Mr. WALKER. Yes, we do have some experience. Our recent monitoring systems reports on some 13 sites which have been implemented indicate that indeed in many cases the placements have gone up. The placement productivity has increased.

What concerns us is that this is not the case in all instances. We do have an uneven utilization among some of those systems. That is one of the problems that we are trying to deal with this year. Perhaps Mr. Lewis would like to add to this.

Mr. GREEN. I would like to introduce Bert Lewis who is the administrator for the employment service area.

Mr. LEWIS. If I may, Mr. Chairman, just expand on Mr. Walker's comment about the evaluation of some of the sites. As the GAO

was aware, about 1½ months after they finished their evaluation we did receive 6-month followup data from 13 sites, 5 of which were real time and 8 of which were batch matching sites.

The information we have is encouraging. Certainly it is not conclusive by any means, but in the real time sites placements increased about 18 percent after job matching was installed, and placement staff time decreased by about 13 percent. In the batch matching sites placements increased by about 22 percent with about a 5-percent increase in the staff.

We will be following up with other sites as they become operational.

COMPLETION OF AUTOMATION

Senator BURDICK. What is the estimated total time and cost to complete the automation?

Mr. WALKER. Actually, until we have done the redirection and taken a look at the problems that we've got in terms of computer capacity and the utilization of some of the systems and how it will be finally structured, until we've got that totally under control, we just don't have a good estimate at this point in time.

Senator BURDICK. Well, in other words, you are taking the GAO's criticisms seriously?

Mr. WALKER. Well, quite frankly, sir, while they were doing their report—it started about a year ago—we became aware of these problems, and we shared them with them, and frankly we have been involved in working out these issues with them.

APPLE HARVEST

Senator BURDICK. Well, I think I will end this interrogation with an apple question: Is the Department planning on a major recruitment effort to supply Puerto Rican workers for the 1979 apple harvest? If so, what actions will the Department take to avoid the problems encountered during the 1978 apple harvest, such as recruitment, transportation and housing of workers not fit or willing to harvest apples?

Mr. GREEN. I'll ask Bert Lewis to comment also. But the Department of course is reviewing its supply of workers for the orchards, apples and other fruit harvests; second, those citizens that live in Puerto Rico that are interested, as we file the clearance orders within the Employment Service system, are eligible.

And what we are trying to do in the future is to minimize the kinds of problems we have had, both in the job orders, being able to match on a timely basis those individuals who are interested with the orders that come in, and supplying as many workers, American workers, who are interested in this kind of activity as there are available openings.

Bert?

Mr. LEWIS. As you know, Mr. Chairman, under the immigration law, U.S. workers have to have an opportunity to fill those jobs. We clear those orders to Puerto Rico as the Assistant Secretary indicated. There should be more time for recruitment. That should improve the situation. I would point out though, that even within the 2-week period last year, the commonwealth indicated that they

had located 2,000 interested workers; slightly less than 1,000 were shipped to the United States.

The numbers that might be available this year, it is difficult for me to estimate. I would suspect that with more recruitment time that there would probably be as many workers interested; on the other side of that, however, many Puerto Ricans who came up here to work went back to Puerto Rico with alarming tales about how they were treated by growers on the mainland.

So that may tend to dissuade some of them from coming.

Senator BURDICK. We have a series of other questions here, but I think they can be supplied for the record with written answers.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

CETA SERVICES FOR THE HANDICAPPED

Question: Do you feel the Labor Department's CETA program is adequately serving the needs of handicapped individuals?

Answer: We feel that, to date, CETA has provided a substantial amount of assistance to handicapped individuals. For instance, during Fiscal Year 1978, approximately 4.4 million persons were served in all titles of CETA. About 3.7 percent or 168,000 of these participants were indicated as handicapped. In the three major titles of CETA, Titles I, II, and VI during Fiscal Year 1978, 5.4 percent, or 71,901, of the individuals served by Title I programs were handicapped, and 4.0 percent, or 48,281 of the total individuals served by both the Title II and Title VI programs were handicapped.

Question: What improvements might be made in the CETA program to better serve the handicapped?

Answer: In accordance with the new Act, a number of requirements have been implemented to assure that CETA prime sponsors give adequate consideration to handicapped individuals in developing their annual plans. These requirements include:

-- the development of an affirmative action plan for services to handicapped persons, including outreach, enrollment, training, advancement and efforts to remove architectural barriers.

-- an indication of the total numbers of handicapped individuals entering unsubsidized employment and the total number of individuals entering unsubsidized employment by each program during the previous year.

In addition, the new statute provides that handicapped individuals must be included as among those identified as most in need.

Finally, the prime sponsors' planning council must include a representative of the handicapped community.

CETA/VOCATIONAL EDUCATION COORDINATION

Question: What specific actions have been taken by the Department to insure that CETA skill training programs are coordinated with vocational education programs?

Answer: A variety of actions related to program planning and institutional arrangements ensures that CETA skill training programs are coordinated with vocational education programs. New requirements for planning provide for much more extensive involvement of education agencies on planning councils and in the planning process, at both the State and local levels.

In addition, prime sponsors must, in economic analysis for the Master Plan, detail the availability of non-CETA preemployment preparatory training accessible to local residents. Sponsors must

develop a list of potential deliverers of service, including Federal, State and local educational and other agencies. They must develop and explain their criteria for selecting service deliverers on a merit basis. With the goal of eliminating duplication of service, they must have and describe their procedures for reviewing services and facilities available in the community, with or without reimbursement.

In the Annual Plan prime sponsors must detail their findings from monitoring, evaluation, and audits on the quality and effectiveness of their programs. All existing institutional and classroom training contractors must be listed along with their positive termination rates. Sponsors must explain any planned changes in program design or deliverers resulting from these objective analyses.

Prime sponsors are to enter into specific agreements, financial and otherwise, with State and local education agencies. In developing these agreements, sponsors must carefully examine educational resources, consider use of services available at no cost and, where appropriate, coordinate programs with local school systems. Agreements must be summarized in the prime sponsor's plan. If a prime sponsor is unable to reach an agreement with educational agencies or institutions, or if these agencies are dissatisfied with the utilization of their facilities proposed by the sponsor, the regulations specifically provide for review and determination on the matter.

In addition to all the actions mentioned, close coordination between prime sponsor and vocational education agencies is required for development and implementation of local plans and nonfinancial agreements for utilization of Special Governors Grant vocational education funds.

Moreover, the Governor and the State Employment and Training Council have significant roles in facilitating coordination. Specific funding is now provided, to the Governor, under the new section of CETA, to encourage coordination and establish linkages between prime sponsors and educational agencies and institutions.

CETA/EMPLOYMENT SERVICE COORDINATION

Question: Many CETA relationships with the Employment Service seem to be marked by duplication of efforts and gaps in service. What actions have been taken to establish a productive coordination relationship between CETA and the Employment Service?

Answer: The new CETA authorization, among other things, requires an agreement between prime sponsors and the employment service. This agreement will spell out the services and activities to be carried out by each entity and the linkages and relationships between the entities. We believe that the cooperation generated by this arrangement will alleviate substantially duplications of efforts and gaps in services which have occurred in the past.

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VOCATIONAL EDUCATION

Question: What kinds of activities are financed by the 6 percent of Title II funds earmarked by the CETA authorizing legislation for vocational education?

Answer: Activities financed by 6 percent funds include the full range of services associated with vocational education. Actual costs of training -- for tuition or for staff, equipment and supplies are a principal cost. Funds may also be used for participant allowances, although these are frequently paid for with local prime sponsor funds through cooperative agreements. In addition, 6 percent funds may be used for basic/remedial education, for education courses requisite for specific occupations, and for related counseling and support services. Funds are usually channeled by the State vocational education board to local public vocational and other educational institutions, per the local nonfinancial agreement between the prime sponsor and the vocational education board.

Question: What percent of CETA trainees is referred to vocational education schools?

Answer: The Federal reporting system does not track CETA participants in terms of the specific types of institutions to which they are sent for training.

Question: What data do you have on the relative effectiveness of CETA Skill Training Centers, Opportunity Industrialization Centers, and vocational education facilities?

Answer: Little data are available from a national perspective on relative effectiveness of different types of training institutions. At the local level, particularly under the CETA amendments of 1978, analysis is required each year as part of the planning process for selection of deliverers of service. It is probable that the effectiveness of vocational education facilities, skills centers, OIC's, and other training institutions is highly varied, depending upon the relative competence of these agencies in their individual local communities.

Question: What are the differences between HEW's Vocational Education programs and Labor's job training programs?

Answer: The differences between HEW's vocational education programs and Labor's job training programs depend upon local program designs and systems. In many instances the programs are actually one, since CETA prime sponsors may use the regular vocational education system, community-based training programs, private vocational training facilities, and their own projects. Overall, it is probably true that training funded with CETA dollars is in lesser skill areas and requires a longer training period, since the CETA clientele is not the general population served by HEW vocational educational programs.

Question: What amount of CETA funding is utilized for training contracts with vocational facilities?

Answer: The Department of Labor does not compile specific data related to funding of training contracts with particular types of agencies or institutions. In the past, such information has not been available on a systematic or uniform basis in CETA grants. Pursuant to the CETA amendments of 1978, sponsors will now be required to list their subgrants and contracts and to provide specific information on these arrangements.

Question: What amount of CETA funding is utilized for training contracts with each of: elementary and secondary schools; community colleges; and private vocational technical schools?

Answer: We did not require specific data related to funding of training contracts with specific types of agencies or institutions. In accordance with the CETA amendments of 1978, sponsors will now be required to list their subgrants and contracts and to provide specific information on these arrangements.

CETA TITLE II: MANAGEMENT INFORMATION AND PROGRAM EVALUATION

Question: Does the present Labor management information system provide adequate information with which to evaluate the performance of various individual training activities, such as classroom training and on-the-job training, authorized under Title II of CETA?

Answer: At the prime sponsor level labor market information LMI is useful from both a planning and a performance assessment perspective. Most importantly, LMI data provides for sound definition of areas and types of training by identifying demand and growth occupations. Such data are also useful to sponsors in assessing placement capability and adequacy of contractors and training actually provided. The Department of Labor can use this information in reviewing and evaluating individual sponsor planning capability and performance.

The present LMI system provides adequate data in most places for performance of the functions identified above. There continues to be some difficulty with relating areas covered by LMI data to prime sponsor boundaries. The Department continues to work on this problem. In addition, significant efforts have been undertaken to improve coordination and communication between prime sponsors and other agencies with LMI data collection and analysis responsibilities, primarily State employment security agencies. Training and technical assistance in use of LMI data is also being provided to many prime sponsors.

Question: Has the Department taken any action to redesign its management information system so that its quarterly reports will provide adequate data to evaluate the individual training activities?

Answer: As required by Section 127(d) of the CETA amendments of 1978, the Federal reporting system beginning with Fiscal Year 1980 will require an annual report from each prime sponsor which relates outcome data including job placements to activity categories. While there are some difficulties with these types of data in a summary reporting system as opposed to an individual tracking system, the information will be very valuable in overall analysis of activity results.

A number of additional changes are included in the draft Fiscal Year 1980 MIS which should improve quarterly reporting data on activities. These include establishment of an activity category which identifies those participants receiving only support services from CETA; splitting of classroom training into two categories, vocational training and other types of classroom training, for example, remedial education; and splitting work experience into a youth in-school and other category.

Question: With 4 years of CETA experience, does the Department of Labor have any data to determine what is a reasonable cost for a prime sponsor to train and place an individual using either the classroom training activity or the on-the-job training activity?

Answer: The Department of Labor does have data on overall costs of classroom training and on-the-job training (OJT) and on the number of persons who have been served in these activities. As you know, the Federal reporting system has not in the past associated participant outcomes including job placements with individual activities. This has been done on a sample basis through the Continuous Longitudinal Manpower Survey (CLMS). The CLMS has not, however, related activities and their outcomes to costs.

It is suggested that there is no such thing as a general "reasonable cost" for prime sponsors for training a CETA participant using classroom training or OJT and their placing that person in an unsubsidized job. Too many variables are involved at this gross level. Classroom training involves a great variety of types of service, including general, basic or remedial education, education specifically related to a particular occupation, and vocational skills training. The cost of training is specifically related to the type of training and its necessary duration. Client characteristics may also be a factor. To be meaningful, any analysis of costs in relation to activities or outcomes in relation to activities or costs must permit taking such variables into account.

Question: Have you established performance standards for each of the classroom training and on-the-job training activities?

Answer: The draft regulations implementing the CETA amendments of 1978 require that each prime sponsor:

-- establish written quantified goals for each activity and service and for each subrecipient of funds based on the specific program purpose of the activity;

-- establish and use procedures for collecting performance information and for assessing such information in terms of goals contained in its grant;

-- establish and use procedures for identifying performance problems and for implementing appropriate remedial actions;

-- establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in selection of deliverers of service.

It is anticipated that performance standards will relate to outcomes by title or major program and will be tied into individual sponsor goals for each activity or service and for each subrecipient.

COORDINATION OF CETA PROGRAMS

Question: What mechanisms exist to insure coordination among the many programs that provide employment and training services?

Answer: Principal mechanisms to insure coordination among related programs are as follows:

-- involvement of local CETA planning councils and other interested parties in the planning process. Also interrelationships among the prime sponsor's planning council, the youth planning council, the private industry council;

-- review and comment process for grant plans and major modifications;

-- new required formal agreements between the prime sponsor and State Employment Security Agency and education agencies;

-- role of the Governor and the State Employment and Training Council and specific funding provided through the Special Governors Grant to facilitate coordination.

In the Master Plan part of each Comprehensive Employment and Training Plan, the prime sponsor must describe its organizational and institutional arrangements to coordinate CETA services with other opportunities not funded under CETA and its internal coordination among CETA titles and programs.

PRIVATE INDUSTRY COUNCILS: CONFLICT OF INTEREST

Question: If Private Industry Councils (PICs) are to have real authority in deciding which businesses get government contracts, what is to prevent them from conflict of interest problems in awarding contracts to themselves?

Answer: We have anticipated the potential conflict of interest of PICs members awarding contracts to their own organizations and so have, included in the Title VII regulation, a requirement that contracts with organizations represented on the PICs be submitted for approval by the prime sponsor. Therefore, the prime sponsor will have the "final word" in such contracts.

Question: To what extent do you see PICs as fund raisers, soliciting donations from businesses to augment Federal funding?

Answer: As to the PICs soliciting donations from private businesses, and any kind of special treatment that might result, we have no specific regulatory provisions. We would encourage private industry to contribute to the overall support of the effort because it would be a demonstration of the public/private partnership we seek.

Question: How would private contributions be handled, to avoid possible conflict of interest situations?

Answer: Our experience to date suggests two things. One, that most donations come in the form of loaned staff, office space, or "good will" for example; use of a letterhead for mail-out surveys. Secondly, whether contributions have been of an in-kind, or of an in-cash nature the latter being more infrequent there has not been evidence of special treatment. Firms who contribute do so for the economic stability of community, that is, a viable economic community is crucially important for the economic well-being of the business, and special consideration for contracts is less significant to the economic success of the company.

PRIVATE INDUSTRY COUNCILS

Question: How many hours per month will members of Private Industry Councils (PICs) be expected to devote to council duties? Do you think these business leaders will be able to develop sufficient expertise to do more than rubber-stamp complex plans drawn up by the prime sponsor's full-time planning staff?

Answer: We expect, and our experience to date has shown that, PIC members will spend a sufficient number of hours on PIC business to give policy direction and that staff will be available full-time to follow through on the details of how to carry out those policies.

Question: How many staff will be assigned to work directly for the Private Industry Councils, as opposed to CETA prime sponsor staff?

Answer: The question of staffing the PICs has been one of the most controversial points with regard to our regulations. We have required that the PIC be staffed. Our requirement comes from the recognition that business people will not be able to devote a large amount of time to the intricate details of the Title VII Program.

Question: How much of the $400 million requested for Private Sector Initiatives will be needed to meet administrative costs of the Private Industry Councils?

Answer: As to the amount of funds that will be spent for administration, we have a fairly strict limit to 20 percent of the Title VII allocation. Exceptions above this amount are only allowed with prior concurrence. This limit is the same as our general Title II B, provisions. Many prime sponsors will no doubt have administrative expenditures far below 20 percent based on experience to date.

NEW TAX CREDIT PROGRAM

Question: Give us a concrete example of how the Targeted Jobs Tax Credit program would work -- walk us through the steps from initial contact with potential applicants through certification of the credit.

Answer: Certifications can be initiated in three basic ways: an employer may initiate the process, for persons he has hired or plans to hire; State Employment Security Agencies or CETA prime sponsors or other cooperating agencies could initiate the process for their clients; or an individual could request certification to assist his job-hunting. The procedure is basically the same in all cases.

As an example, assume the case of an individual who comes to the Employment Service (ES) looking for work. The ES staff person would ask some initial questions to determine the possibility that this job-hunter might be eligible for the tax credit program. If the person would seem to qualify as an economically disadvantaged youth, the youth would be referred to the CETA prime sponsor for formal eligibility determination. In practice, the CETA prime sponsor may have a staffer outstationed at the ES office; or the ES may be doing eligibility determinations for the CETA prime sponsor. In these cases, eligibility can be determined on the spot. If eligible, the youth is given a voucher, which can be used as a job development aid. The ES would also attempt to place the youth on one of its own job orders, perhaps one specifying a Targeted Jobs Tax Credit (TJTC) eligible worker. When the youth is offered a job, the employer completes the employer portion of the voucher and sends it to the Employment Security Targeted Job Tax Credit Unit, which has received a copy of the voucher and client characteristics from the CETA prime sponsor. The TJTC unit will check the voucher for consistency, contacting the CETA prime sponsor, if necessary, to clear up any discrepancies. Once it is convinced that the information is correct, it will send the employer a certification form for the employer's tax records.

PRIVATE INDUSTRY COUNCILS

The Private Industry Councils (PICs) were apparently not established as quickly as expected. A November, 1978 article indicated that only 8 of the 34 funded PICs had established a membership, elected a chairman, and had held at least one meeting.

Question: What are the reasons for the delays in establishing Private Industry Councils?

Answer: Many of the test site prime sponsors were delayed in establishing PICs because they did not want to move quickly and involve busy executives until it was certain that the Congress was going to pass Title VII. Other test-site prime sponsors had difficulty because of vacation schedules and other logistical problems, such as great distances. Since CETA was reauthorized, all prime sponsors have received planning grants of $25,000. As of the end of February, the Department of Labor had reports that 51 PICs had appointed a chairperson, had appointed PICs members, and had held at least one meeting. Once again, many prime sponsors are reluctant to appoint PICs before the funding for Title VII is assured.

Question: How many CETA prime sponsors have gone ahead on their own to establish Private Industry Councils, without Federal funding?

Answer: Except for the 34 demonstration sites, information is not available on Private Industry Councils formation prior to the distribution of the planning grants to all prime sponsors in December 1978. Since then, 51 prime sponsors have reported the establishments of PICs.

Question: With recent CETA private sector programs failing to achieve their desired goals within a reasonable period of time, what new procedures is Labor establishing to achieve better results in the Private Sector Initiatives program?

Answer: By involving the business sector directly in the planning and development of programs through the Private Industry Councils, the Department feels that employers will have a stake in the program and will be instrumental in making employment and training programs more responsive to the private business community.

STATUS OF PRIVATE INDUSTRY COUNCILS

Question: How many Private Industry Councils have already been formed and have had at least one meeting?

Answer: As of the end of February, Private Industry Councils (PICs) have been established by 51 prime sponsors which means members identified, chairman pro-tem chosen and first meeting held.

Question: How many chairmen and members of these councils come from small businesses?

Answer: Members of small businesses should be represented on all of these councils since our proposed CETA Regulations state that "where possible, at least half of industry and business representatives shall be representatives from small businesses. The information on how many chairpersons come from small businesses is not available at this time.

SHORT-TERM PRIVATE SECTOR JOBS

Question: A recent Labor Department study revealed that only one-third of all new hires in the private sector last as long as nine months. What plans do you have to avoid placing Private Sector Initiatives participants in jobs which may last less than a year?

Answer: The question implies or suggests that there is something inherently wrong with placements lasting only about nine months. Of those who leave employment after that period of time, a significant number of them do so in order to accept better positions. There are no specific plans under development addressing placements of less than one year's duration at this time. However, the participation of the business community with prime sponsors in the development of employment and training programs through Private Industry Councils will facilitate formulation and implementation of programs that speak to high quality employment opportunities in the private sector.

It should be noted that CETA enrollees are not going to be labled as Private Sector Initiatives Program (PSIP) participants. PSIP is a mechanism; one of its purposes is to increase the flow of CETA enrollees to jobs in the private sector. PSIP is designed to influence the entire Employment and Training System so that it becomes more responsible to business, where the jobs are, and thereby improve the employment outlook for those CETA seeks to serve.

PROLIFERATION OF PLANNING COUNCILS

CETA already has State Manpower Planning Councils, prime sponsor planning councils, and Employment Service industry councils.

Question: Do we really need to create another layer of planning councils in order to get business involved with government employment and training efforts?

Answer: A distinction should be made between what we generally perceive the function of a planning council to be and the assigned role(s) and responsibility to be undertaken by Private Industry Councils (PICs). PICs ought not to be viewed or considered another "layer" as that suggests a passive role. Also, there is a difference between seeking business "involvement" and seeking its "participation". PICs serve as a primary vehicle to achieve active participation in the conduct of employment and training programs.

The proposed Title VII regulations authorize prime sponsors and PICs to determine the exact role, duty and responsibility a PIC shall have. Unlike conventional advisory or planning councils, PICs have authority to determine how Title VII funds will be used in respective jurisdictions and in effect have the responsibility to approve or disapprove the prime sponsors Title VII plan. Such responsibility and authority will make it possible for PICs to influence prime sponsor programming in a manner responsible to the labor needs of the private business community-based on its first hand understanding of the factors involved in development of productive and successful employees. It should also be noted that PICs share in the responsibility for the success or failure of programs initiated at their recommendation; theirs is not simply an advisory or consultative role.

Question: Will you continue to support the Employment Service System or private sector councils?

Answer: Yes, its likely that the Job Service Improvement Program (JSIP) committees and PICs can compliment each other. However it should be noted that JSIP committees are purely voluntary committees and do not have funds to operate programs nor do they have particular definable responsibilities toward federally funded programs. Clearly the manner in which these two groups operate will depend largely on their respective interest in melding their efforts in a common effort to expand the number of private sector employment opportunities at the local level.

Question: How will duplication and overlap be minimized?

Answer: As the lead agent linking the employment and training system with the private business community, PIC will work to coordinate public and private sector participation and involvement and strive to develop and define the roles of various groups into a unified approach in their respective jurisdictions.

"SALES MATERIAL" FOR PSIP

Question: Do you plan to provide the PICs with a common set of "sales" material, if you will, so they all deliver the same vital message of cooperation to the other members of the business community?

Answer: The message of cooperation and involvement by the business community to make PSIP work is being stressed in these "Sales" materials.

The National Alliance of Business is responsible for a planning and design study that will result in a marketing campaign for the PSIP. Promotional materials, a media campaign, and establishment of data sources will be some of the products of this marketing strategy.

ORGANIZED LABOR'S CONCERN

I've read that at least in one place, organized labor is concerned that Private Sector Initiatives Program (PSIP) training might take jobs away from its members and create another group of disadvantaged people.

Question: Is this a real concern? If so, what can you do to alleviate it?

Answer: We do not feel the concern is valid. PSIP training is designed to supplement rather than supplant the existing work force. Organized labor has been and will continue to be vitally involved in the design of PSIP. It will be in a position to keep a close watch on the program and represent the interests and concerns of its constituency.

Representatives of organized labor are required by the Act and the regulations to be members of the Private Industry Council (PIC). Prime sponsors should also consult with labor organizations in selecting other members of the PIC. The prime sponsor is required to transmit a copy of its Annual Plan Section for Title VII to appropriate labor organizations for comments. Further, before entering into any on-the-job training (OJT) contracts, the proposed regulation require that the prime sponsor: consult with appropriate labor organizations in the design and content of the training, and obtain written concurrence from the appropriate bargaining agent where a collective bargaining agreement exists with the participating employer covering the job for which OJT will be given.

PHILADELPHIA AND PITTSBURGH

Question: I note that Philadelphia and Pittsburgh are designated as "high emphasis communities" for the private sectors program. Can you explain -- or provide for the record -- the plans that are evolving for these two Pennsylvania cities?

Answer: Both cities were among the 34 areas which received $25,000 to plan for and organize their Private Industry Councils (PICs). Both cities have fully constituted PICs, although they have only recently been appointed.

Philadelphia has decided on a two-tiered PIC, with a Policy Board of 15 to 21 members and an Operating Board of 19 to 25 members. A majority of the members of each Board are from business, half of the remaining members from labor, and the balance from other groups such as Community Based Organizations (CBOs), government, Local Education Agencies (LEAs), etc. The role of the PIC is to be primarily policy making and administrative with the intent of subcontracting all programs where possible. The PIC will perform research planning, monitoring and evaluation in conjunction with the goals established by its Policy Board.

The PIC chairman pro-tem is the president of the Center for Philadelphia Area Development. The Prime Sponsor's Private Sector Subcommittee, which, with the chairman pro-tem, developed the Private Sector Initiative Program (PSIP) is nominating members for the PIC and doing other organizational tasks, and is very active in promoting the concept of the PSIP among the business and economic development organizations in the city of Philadelphia. The PIC became fully operational in February 1979 when the mayor formally appointed the members of the Policy Board, which then held its first official meeting.

The Pittsburgh PIC will have its first formal meeting in March, its staff will be hired by the end of March - early April. The PIC has 16 members, 5 from big business including the chairman who is the former Chairman of the Board of Westinghouse, 4 from small business, 1 from organized labor, 2 from educational agencies, 2 from community-based organizations (the Urban League and a minority-based community redevelopment corporation), and 1 from the National Alliance of Business.

The PIC wants to be active in restructuring employment and training programs in the area. The members do not want to run programs but to be active in planning and evaluating them. They want to educate the business community about employment and training programs.

FUTURE COST OF PICs

Question: Do you anticipate that if the program becomes a success, private sources of funding will begin to pick up more and more of the cost -- and the federal government less and less?

Answer: Private sector involvement in CETA through Title VII should result in a better match between CETA training and private sector job openings generally, and not just for Title VII program activities. Thus, while private sources of funding may or may not absorb some of the cost, the expenditure of CETA funds should become more effective in terms of providing stable long-term unsubsidized employment in the private sector. This in itself is sufficient reason for Private Industry Councils to continue their activities after Title VII funds are no longer available.

PRIVATE SECTOR AS FULL PARTNER

A recent article in "Worklife" magazine quotes Lou Waldeman, head of the Broward County, Florida Employment and Training Administration as saying this of the PSIP program:

"PSIP can work if prime sponsors consider the private sector as a full partner. If they do otherwise, they will commit a serious strategic blunder."

Question: Wouldn't you agree that this statement contains some common sense that all prime sponsors should follow?

Answer: Yes. The requests for this program are intended to assure this partnership.

Question: Are you doing anything to make certain that the private sector is accorded full partnership status in the PSIP/Prime Sponsor relationship?

Answer: The regulations for this program speak specifically to these concerns namely:

-- that the primary vehicle to assist prime sponsors to meet the goals of the Private Sector Initiative -PSIP- is the Private Industry Councils - PICs- "which are to participate jointly with the prime sponsor in the local development and implementation of programs;

-- that the purpose of the PICs is, among other things "to increase the involvement of the business community ... in employment and training activities ...";

-- "a majority of the PIC membership shall be representatives of industry and business ...". "In establishing a PIC, the prime sponsor should consult with business and industry, ..." where a National Alliance of Business metro organization exists, it should be given consideration in establishing a PIC;

-- that the chairperson pro-tem of the PIC shall be from the business and industrial community and shall assist in identifying potential members and in establishing the PIC. The chairman, who is selected by the PIC members, must represent business and industry;

-- the position of the PIC within the prime sponsor's organizational structure shall be determined by the prime sponsor in consultation with the PIC, in such a way that it is enabled to carry out its responsibilities;

-- while the activities of the PIC must be coordinated with those of the prime sponsor's planning council or State area planning bodies, the PIC shall not be subordinate in its authority to the prime sponsor's planning council;

-- the PIC will have its own staff;

-- the PIC will design and develop its own program in conjunction with the prime sponsor. It is also the primary vehicle of the prime sponsor for redirecting employment and training activities under the Act from public and private non-profit subsidized employment of CETA participants to unsubsidized permanent positions in the private sector;

-- finally, "the business community should be involved in determining the functions of the PIC so that these will be responsible to the needs and interests of business and industry."

CREDIBILITY WITH BUSINESS

Question: Isn't adequate advance funding essential to private industry's ability to plan?

Answer: More than one-eighth of the CETA system is fully ready to implement the Private Sector Initiative Program -PSIP-: a Private Industry Council -PIC- has been formed, a chairperson has been selected, and at least one meeting has been held. A substantial proportion of the balance of the system has taken one or more of these steps, but awaits an appropriation before going further. The Department has already heard from several prime sponsors, some of which had PICs formed for as long as six months, inquiring as to what to do since funds have not yet been appropriated. We have concentrated our efforts on the remainder of the system, providing advance planning funds for the establishment of PICs. Obviously, the longer the appropriation is delayed, the less able we are to build upon the momentum that has already built up. Although we hope that PICs will turn their attention to other private sector related activities presently being operated by prime sponsors, we also fear a loss of interest if the primary reason for the formation of PICs -- to design, develop and operate a Title VII program -- must be delayed much longer due to the absence of an appropriation.

WELFARE REFORM VERSUS PICs

One major objective of the Welfare Reform project will be to try out methods of improving private-sector job search by participants and stimulating private-sector placements. Unless these are well coordinated with the private-sector initiative program, they could conflict with PSIP.

Question: What are you doing to coordinate the two programs (Welfare Reform and PSIP)?

Answer: The planning and operation of these two programs will be closely coordinated since they are both being carried out at the local level by CETA prime sponsors. Furthermore, the welfare reform program is being planned as an integral part of the CETA system, not as a separate stand-alone program.

Finally, before a demonstration site can begin full scale operation of the welfare reform demonstration program, it must submit a plan for operations which shows how the new demonstration activities will be conducted in coordination with other CETA programs, including the new Title VII program.

Question: Will you have representatives of the welfare projects involved with the Private Industry Councils-- and vice versa?

Answer: We expect to use the Private Industry Councils -PICs- to assist in carrying out the welfare reform demonstration program to the maximum extent possible. We expect that the councils would be used in the demonstration program in the same manner that they would be used for the regular CETA programs, that is, PICs will help in developing, planning and supervising a variety of job and training programs with the active participation of the local business community, provide information on program activities to local businesses and encourage their involvement in training and placing program participants.

Question: Would a welfare project work through a PIC to place its enrollee in private-sector jobs?

Answer: We would expect that the Councils would carry out private sector placement activities associated with on-the-job training and other private sector linkage programs. Initial placement activities would, however, be carried out by the Job Search Assistance component of the demonstration program.

INDIAN AND NATIVE AMERICAN PROGRAMS

Question: The Department's budget request contains funds for the operation of Indian and Native American programs providing comprehensive training, Public Service Employment, youth employment and other activities. What technical assistance and training (TAT) support is the Department providing to improve the effectiveness of these programs? Is the level of this TAT support proportional to the amount of operational funds for Indian and Native American programs within the CETA system and to the need for such TAT services?

Answer: The Department provides a variety of technical assistance and training support to Indian and Native American programs to improve the effectiveness of their programs. These include an annual TAT budget of $250,000, access to the Department's Regional Training Centers, direct on-site TAT from administrative offices within the Employment and Training Administration such as the Office of Administration and Management, written guidance and reference material, and on-site TAT from the Federal Representatives within the Department's Division of Indian and Native American Programs. To allow maximum flexibility and impact of the $250,000, these funds are allocated to regional Native American grantee associations. The associations identify their TAT needs, and use the funds they are allocated to address them.

Beyond merely assuring a proportional fair share, however, we are also reviewing relative need of Native American grantees compared to State and local units of government. Special studies indicate

that need for TAT may be greater on the part of Native American grantees. Beyond the basics of program and financial management, these studies also indicate that the need for TAT related to planning and economic development is acute. In terms of proportionality the $250,000 figure represents less, as a percentage of the total TAT dollars available, than Native American grantees receive under regular CETA funds as a percentage of what State and local units of governments receive. In fact it is only 1.7 percent of the total $15,010,000 which has been requested by the Department. Under Title III, Native Americans receive 4 percent of what State and local units of governments are allocated. This apparent disparity is one of the major items that a TAT task force within the Employment and Training Administration is studying.

Question: The Department has requested a net reduction of 433 positions in the program administration account for the Employment and Training Administration. What effect will the projected staffing level in FY 80 have on the ability of the Division of Indian and Native American Programs (DINAP) and the Office of National Programs (ONP) to effectively manage the grants for Indian and Native American CETA programs? Is the current staffing level in these units proportional to the level provided other units of the Employment and Training Administration handling direct grants to prime sponsors?

Answer: Because of the pending reorganization of the Employment and Training Administration, final determination on the number of positions to be allocated to the Division of Indian and Native American Programs (DINAP) has not yet been made. The impact of a cut will present similar problems for DINAP in performing its major functions as a national program office responsible for working directly with Native American CETA grantees much in the same way that ETA regional offices work with State and local CETA prime sponsors. The Federal Representatives perform duties similar to those performed by their regional office counterparts who work with State and local prime sponsors. The average number of basic grants assigned to each Federal representative is 11.6. Compared with the number of State and local grants assigned to regional office Federal Representatives, it is estimated to be approximately 2 grants per person.

Question: On February 1st Secretary Marshall announced a number of measures to improve the Department's management of the CETA system. A reorganization of ETA is rumored to be among these measures. How will the projected reorganization affect the special responsibilities imposed by CETA on the Secretary with respect to programs for such special target groups as Native Americans, Farmworkers and Older Workers?

Answer: The reorganization of ETA is only in the proposal stage at this time, so it would not be appropriate to discuss the specifics -- as they are subject to change. However, the reorganization will not serve to weaken the emphasis which is now accorded to the administration of programs for special target groups.

NATIONAL ON-THE-JOB TRAINING PROGRAMS

Question: What is being done to ensure that the training supported under the National On-the-Job Training Program meets an acceptable standard?

Answer: The quality of training delivered under the National On-the-Job Training Program measures up to a very high standard. The great majority of training projects that are included in this program category are conducted through arrangements with national level trade management associations, labor organizations, and in one case, a major coporate employer. Through this program, economically disadvantaged persons are given training and job opportunities in private industry by private industry. This ensures that the training is practical, up-to-date, and provided in an actual work setting. Our funding agreements with the project sponsors do, of course, include adequate discussion of training techniques and methodologies; and the training activities are monitored by Department of Labor staff through on-site visits.

Question: How often are National On-the-Job Training Programs and work sites visited by Labor Department staff?

Answer: Under this program, training is provided at approximately 479 sites each year. The staff who are assigned to oversee this program are able to visit about 40 of these sites annually.

Question: Does Labor get feedback directly from trainees?

Answer: During on-site visits, Federal staff interview trainees on occasion, but this is not a prominent feature of our monitoring procedures. We would like to do more in this area, but our staff resources are not great enough to obtain a meaningful volume of direct feedback from trainees in the National On-the-Job Training Program -- at least in the context of routine project monitoring. It should be noted, however, that extensive interviews with program participants are normally conducted during in-depth program evaluations.

Question: Has the Department developed on-the-job training performance criteria that establishes minimum requirements of: (1) job suitability and job length necessary to merit a placement credit and (2) the service level necessary to merit a placement claim?

Answer: It would appear that this question concerns the Targeted Outreach Program rather than the National OJT Program. Under the Targeted Outreach Program, which is designed to recruit and place minorities and women into skilled jobs, project sponsors may claim placements only in jobs where the individual is formally indentured as an apprentice or which otherwise pay $4.00 or more an hour. As to the length of time an individual must be in the job before a placement can be claimed, the project sponsors may count a placement as soon as the individual is indentured or hired. This ground-rule is in effect for CETA programs generally. With regard to the services which

project sponsors must provide to an individual before they can count the individual as a placement, our guidelines provide that the project sponsor must, as a minimum, have referred the individual to the job for which the placement is claimed.

DEMONSTRATION EMPLOYMENT AND TRAINING OPPORTUNITIES

Question: How much is in the budget to implement the recently authorized employment and training opportunities program for the handicapped?

Answer: If reference is being made to the program newly authorized by Title VI of the Comprehensive Rehabilitation Services Amendments of 1978, then the answer is that no funds are being requested in the CETA budget.

Question: How would these activities be coordinated with Labor Department employment and training programs?

Answer: One of the programs in question, the Community Service Employment Pilot Program for Handicapped Individuals authorized by Title VI A of the Act, would be administered by the Department of Labor if it is funded. With respect to the other program under Title VI B, we have not yet got down to business with the Department of Health, Education, and Welfare to work out coordinating mechanisms.

NATIONAL ALLIANCE OF BUSINESSMEN

Question: How much is the Federal government paying the National Alliance of Businessmen to promote programs like Private Sector Initiatives?

Answer: The National Alliance of Businessmen -NAB- contract signed in November of 1978 for twelve months included $2.8 million for the direct support of the Private Sector Initiative Program.

Question: How many people are employed by the National Alliance of Businessmen?

Answer: The National Alliance of Businessmen employs a total of 1,526 people. Of these, 205 full-time and 992 part-time individuals are paid for from private funds. The Department of Labor pays for 329 people, 89 of whom are management and 240 are support staff.

Question: What are the salaries of the NAB Vice Presidents and Directors?

Answer: The NAB national Office has 10 vice-presidents, 2 of whom are paid for through private funds. The remaining 8 are paid for by the Department of Labor within a salary range of $27,500 to $52,000. There are 119 field office metro director positions all of which are paid for through private funds.

OFFICE OF NATIONAL PROGRAMS

Question: List the total amount of funds awarded during fiscal year 1978 by the Office of National Programs by program area, i.e.,

migrant and seasonal farmworkers, Indians, offenders, older workers, etc.

Answer: The information is as follows:

Native American Programs	$106,754,000
Migrant and Seasonal Farmworker Programs	109,700,000
HIRE I	39,935,000
Minority Group Skill Training	43,362,000
Promotion and Development Programs	19,381,000
Community Based Organizations	8,226,000
Programs for Persons with Limited Speaking Ability	1,986,000
Older Worker Programs	20,316,000
Senior Community Service Employment Program/Title V (formerly IX) of the Older Americans Act	200,900,000

OFFICE OF NATIONAL PROGRAMS

Question: Also list by program the total number of professional staff (usually Government Authorized Representatives) who work full-time monitoring the activities carried out under each program.

Answer: The Office of National Programs has a complement of 92 professional staff. Of these 5 work in the immediate Office of the Administrator of National Programs and perform general supervisory and administrative functions. An additional 12 are employed in a staff unit which provides technical contracting services to other national office components. The remaining professional staff are organized into units which deal with specific program categories. Within each of these "program" units, a small number of professional staff perform supervisory or support functions, but most work in the capacity of Federal Representatives who are assigned to monitor individual project sponsors and to otherwise dispose of the considerable day-to-day business which takes place between the Department and these project sponsors. The following table shows the current number of professional staff assigned to each of these "program" units, the number who serve as Federal Representatives, and the number of project sponsors the units currently oversee.

Unit	No. Prof. Staff	Fed. Reps.	Project Sponsors
Division of Indian and Native American Programs	32	15	169
Division of Farmworker Programs	16	13	167
Division of National Training Programs	21	17	274
Older Worker Unit	6	5	71
Totals:	75	50	681

Question: What amount of travel funds was made available to the Office of National Programs during Fiscal Year 1978 and how much was expended?

Answer: In Fiscal Year 1978 $230,000 was made available and $129,000 was spent.

Question: What was the total number of grants and contracts awarded during Fiscal Year 1978 and what percentage of each was awarded on a sole source basis?

Answer: The term "sole source" has a very specific meaning as it is used in the context of Federal procurement transactions. It refers to situations where a contract is awarded without competition because there is only one firm or source that can supply the property or services which the Government wishes to procure. It should be noted here that "sole source" conditions are not the only grounds for making procurement contracts without competition. For example, under the Small Business Administration's "8(a)" program, Federal agencies make a large number of procurement contracts to minority-owned businesses on a non-competitive basis; and there are also cases where competition is diminished by limiting the contract awards to small businesses, minority-owned or otherwise. It should further be noted that the term "sole source" is generally inappropriate for use in the context of Federal assistance transactions. While there are many instances where it is both feasible and desirable to make grants through competitive award procedures, it is more often the case that the purposes of the grant make competition either irrelevant or counterproductive. Examples here include programs where grants are made to "entitled" recipients on a formula basis and programs such as HIRE which attempt to induce private employers to overcome their inherent reluctance to put disadvantaged people on their payrolls. In consideration of the above discussion, the following table indicates: (1) the number of contracts awarded in Fiscal Year 1978 and, of these, the percentage that were made on a "sole-source" basis and the percentage that were awarded without full competition for other reasons; (2) the number of grants executed in Fiscal Year 1978 and, of these, the percentage that were awarded competitively, the percentage that were made non-competitively to "entitled" recipients, and the percentage that were awarded non-competitively for other reasons; and (3) the number of HIRE funding agreements executed in Fiscal Year 1978.

Contracts Awarded by the Office of National Programs in FY 1978

Total number awarded	703
Percentage awarded on a sole-source basis	37
Percentage other non-competitive awards	41

Grants Awarded by the Office of National Programs in FY 1978

Total number awarded	927
Percentage awarded on a competitive basis	28
Percentage awarded noncompetitively to entitle recipients	71
Percentage awarded noncompetitively for other reasons	1

HIRE Funding Agreements Awarded by the Office of National Programs in 1978

Total number awarded	197
Percentage of noncompetitive awards	100

DOCTORAL RESEARCH GRANTS

Question: Why is the $500,000 program supporting doctoral dissertations in the manpower field being phased out?

Answer: We have been supporting the doctoral dissertation and small grants research program for 14 years and it has proved to be a very worthy program. Our rationale for discontinuing support does not reflect the lack of $500,000, but rather is based on a reordering of our priorities in an effort to deploy staff resources to handle more urgent program operations. This is a lean and austere budget year with associated personnel stringencies directed at meeting the total levels within the government as mandated by the Civil Service Reform Act. While the small grants dissertation program is a sound program and has served the Employment and Training Administration well over the years, it is not as urgent now as when it was initiated. During the early 1960's, few universities maintained a graduate program concentrating on the expertise required in the employment and training area. Since we first initiated the program, we have provided support for over 500 outstanding employment researchers, experts and administrators within the field of manpower, research, economics and associated disciplines, many who are currently working for Congress, Federal, State and local governments and in various educational and research institutions throughout the country.

It is our hope now that universities have gotten started in this essential field that they will continue to offer curricula and support students seeking to pursue careers in the employment and training, research and human resource development field. We are hopeful that the doctoral dissertation program can be continued in some form. At present our plans for continuation of the doctoral dissertation program are still being formulated.

Question: Won't elimination of this program tend to reduce the number and quality of college students entering the field of employment and training research?

Answer: Yes, because there would be no immediate monetary incentive to work in the employment and training field, since universities generally have not put any special emphasis on this field of study. The career choice would be left entirely to the individual student; therefore, we would no longer be guaranteed a supply of PH.D's in the employment and training field. Up to the present, the program has been very successful in producing outstanding people in the field. However, as mentioned above, the situation is not now as critical as it was 14 years ago, and we hope that a sufficient interest and demand has built up over the years to induce the academic community to continue to offer employment and training curricula, and students to pursue it.

Question: How many grants were awarded last yeat?

Answer: Thirty-eight grants were awarded in Fiscal Year 1978.

Question: After these research studies are completed, how have they been utilized?

Answer: The results of the research studies are systematically reviewed by experts in the field of employment and training for policy and program implications. In addition, monographs summarizing studies have been published by the Employment and Training Administration to make findings of the dissertation research available to a wider audience particularly Federal, State, and local manpower planners.

COORDINATION OF NATIONAL AND LOCAL PROGRAMS

Question: Before awarding national CETA Title III grants and contracts to prime sponsors or organizations within a prime sponsor's area, how does the Department assess the need for such additional services?

Answer: The needs are assessed mainly on the basis of information and documentation provided in the applications and proposals for these grants and contracts

Question: Are prime sponsors consulted before Title III grants and contracts are awarded?

Answer: Not normally. It may seem unusual, but in the vast majority of cases, it is either unfeasible, unnecessary, or inappropriate to consult prime sponsors before Title III grants and contracts are awarded. Under our Native American programs, for example, prior

consultation with State and local governments would be inconsistent with the trust relationship that exists between Indian tribes and the Federal government. In the context of our farmworker programs, grant applications are reviewed and commented on by State and local officials via the clearinghouse sytem under OMB Circular A-95. In numerous other cases, funding transactions are for the renewal of long-standing programs of demonstrated effectiveness that are already fully coordinated with State and local operations. It should be noted, however, that while prior consultation is not standard procedure, our written guidelines require recipients of Title III grants and contracts to cooperate with the prime sponsors in whose jurisdictions they operate.

HIRE

Question: Under the reimbursable Help Through Industry Retraining and Employment -HIRE- -- what is the total amount obligated?

Answer: A total of almost $40 million has been obligated under the HIRE I reimbursable program. An additional $90 million has been allocated to prime sponsors under the HIRE II program. Of this amount, $45 million has so far been obligated by prime sponsors.

Question: How many private employers participated, and how many positions were involved?

Answer: For HIRE I -- there are currently 204 contracts, however, some employers have multiple contracts. This involved 24,000 jobs.

For HIRE II -- the Federal reporting system does not track the number of employers or the number of positions involved. Instead, the number of participants served is reported quarterly. Three hundred prime sponsors are participating in the HIRE II program.

Question: Currently, how many HIRE, reimbursable positions have been filled, and what amount has been paid to the private employers?

Answer: As of December 1, 1978, HIRE I had 9,053 participants, and $8.4 million has been paid to private employers. Employers are paid only for participants currently being served.

For HIRE II, approximately 15,000 participants have been served through the end of January 1979. HIRE II is expected to serve over 25,000 participants. Since the program has not been in operation for very long, actual data on expenditures is not yet available.

STIP PROGRAM

Question: How much was set aside originally to fund the Skill Training Improvement Program -STIP-.

Answer: $325 million.

Question: How much has actually been spent for STIP activities?

Answer: Expenditures as of the end of February 1979 total $53 million.

Question: How many participants have been enrolled in the program?

Answer: At the end of Fiscal Year 1978, 15,102.

Question: How do you measure success for a STIP participant, and how many participants have attained success?

Answer: Success for STIP participants can be measured by the rate of placement in unsubsidized employment. The rate of placement is determined by the number of participants placed out of total terminations. Another indicator of program success is a comparison of the wages an individual receives after STIP training with their pre-STIP wage. For Fiscal Year 1978, the placement rate was 38.4 percent. For Fiscal Year 1978, the average wage increase was over $1.00 per hour.

STAFF REDUCTIONS

Question: You propose eliminating 433 Employment and Training Administration staff--more than 10 percent. How can you improve program implementation with fewer staff?

Answer: The Department will accommodate the staff reductions, to the extent possible, through normal attrition, and in a manner that will not damage the Department's ability to improve program implementation. This will be accomplished by assessing 11% of the reduction to direct programs and 16% to program support.

Further, in order to accommodate the lower staffing level without jeopardizing program performance, the Department plans to eliminate or reduce marginal functions and increase productivity. The productivity aspect will be enhanced by a reorganization of the Employment and Training Administration for which various options are now under consideration.

Question: How many staff will be cut from regional offices, as opposed to headquarters?

Answer: In the regional office, a reduction of 241 in staff is planned, which is 12.2%, as opposed to a reduction in headquarters of 192 in staff or 18.8%.

Question: How many positions are budgeted for technical assistance and monitoring activities, compared to fiscal 1979?

Answer: In fiscal year 1980, 878 positions are budgeted for technical assistance and monitoring activities as compared to 981 in fiscal year 1979.

GAO REPORT ON SUMMER PROGRAM

Question: Am I not correct that the GAO report doesn't say the participants in the summer program are to blame, but rather the supervision by the Labor Department and its regional people is the problem?

Answer: The clear implication in the GAO report is that the participants are blameless and that the fault lies with the management of the program by Federal and local prime sponsor staff.

In view of the multiple strategies employed by Federal Administrators to improve the operation of the summer program, we feel this allegation to be highly unwarranted. Regulations, planning instructions, application requirements, reporting and monitoring mandates, technical assistance materials, multiple evaluations, and national and regional policy directives have all been developed, issued, and reinforced in support of program improvement. The degree to which such actions can be expected to produce major visible and measurable impacts on a 3-month program within a given single year must be realistic. The conclusions reached in the GAO report appear to be based on assessments that do not encompass such realities.

Question: What steps are you taking to straighten out your administration of the Summer program?

Answer: A number of steps have been taken to enhance the administration of the summer program. The steps taken include regulations changes and an expansion of the grant application requirements. In addition, a monitoring guide is being developed which will (1) serve as a checklist to strengthen regional monitoring activities, and also (2) serve as a source document for evaluation and assessment.

Administrative provisions of the regulations have been tightened to require, in the selection of subgrantees, that strong consideration be given to previous performance, financial management capability, qualifications and background of persons with operational and fiscal accountability, provisions for adequate training of personnel, and performance under other Federal programs.

A book has been compiled entitled Summer Program for Economically Disadvantaged Youth (SPEDY) Monographs of 1978. These monographs exemplify a range of conditions and problems faced by prime sponsors and offer a variety of ideas and models for other planners and administrators.

Question: Weren't there examples in the GAO report of useful work done by enrollees working at hospitals, day care centers and rural libraries?

Answer: The examples in the GAO report were at a variety of urban and rural sites. The site, types of jobs, and number of enrollees are listed below:

GAO REPORT ON SUMMER PROGRAM

Urban Sites	No. of Enrollees	Rural Sites	No. of Enrollees
High School	21	Parks Department	2
Day Care	12	Hospital	14
Playground	8	Library	3
University	48	School	2
Community Agency	64		
Urban Group	30		

Also included was a summer nutrition program with 3 enrollees and a welding and engine repair training component with 13 participants.

The Department conducted reviews of the summer program in each of the 10 regions during 1978. The review teams went to a total of 96 worksites, interviewed 72 supervisors and a total of 325 youth. The supervisory ratio averaged 1:11 in a diversity of work and training activities as shown in the Job Classification Table.

The summer program is the major job opportunity for minority disadvantaged youth who derive from this program benefits that might not otherwise be available to them. The job classifications shown represent substantive work activities.

Job Classification Table

Job Classification		No. Slots	Percentage of Total Slots
General Office (Aides)		2,832	17%
Clerical	1,534		
Typist	840		
File Clerk	458		
Community Service Aides		3,002	18%
Teachers (Inst.)	581		
Librarian	530		
Recreation	1,363		
Teachers (Day Care)	271		
Camp Counselors	257		
General Maintenance (Aides)		5,259	31%
Janitorial	2,468		
Landscaping, Outdoor Beautification	893		
Construction, Building Upkeep, Weatherization	1,898		
General Health (Aides)		660	4%
Nursing	390		
Lab Assistant	27		
Dietary	243		

Job Classification		No. Slots	Percentage of Total Slots
Vocational Work Experience		2,525	15%
General Mechanics, Auto Repair	689		
Arts, Media	915		
Cosmetology	255		
Roofing, Heating, Air Conditioning	306		
Painting	254		
Printing	106		
Career Exploration-Cultural Enrichment		2,205	13%
Cultural Enrichment	1,195		
Job Preparedness Training	635		
College Prep.	375		
Remedial (Reading, Math at high school level)	366	366	2%

Question: Didn't the GAO report indicate that smaller worksites tend to foster better work habits? Isn't it possible to shift toward smaller worksites wherever possible?

Answer: Yes, the report did indicate that "Smaller sites seemed to foster good work habits more often than larger ones." The shift to smaller worksites wherever possible is, of course, encouraged and/or recommended. We have instructed prime sponsors to maintain the participant-supervisor ratio at no greater than 15:1 unless justified. If there are 30 participants at a larger site, there should be 2 supervisors or 1 supervisor and 1 assistant supervisor. In other words, there should be 1 supervisor for every 15 participants.

At present, there are approximately 165,000 worksites, or an <u>average</u> of 6 participants per worksite. This does not, however, represent a standard profile of all worksites. Larger worksites do experience problems of scale and these must be addressed in specific terms. DOL plans currently include specialized focus on large city summer programs with outstationing of Federal staff to monitor specifically 10 large city FY 1979 summer programs. From this effort, specific guidelines will be developed for either (1) working with larger number of participants and/or (2) mechanisms for smaller worksite development.

OFFICE OF MANAGEMENT ASSISTANCE

Under the new CETA law, you are supposed to establish a new Office of Management Assistance to improve the overall management of the CETA program.

Question: Have you established the office yet -- and where will it be located? How much money and staff will be allocated to its operation?

Answer: We are in the process of establishing the Office of Management Assistance. It will be located within the Employment and Training Administration National Office and will impact on the field both directly and through the Regional Offices.

Staffing levels for the Office of Management Assistance - OMA - have not yet been determined as the establishment of OMA is part of a major reorganization of the Employment and Training Administration which will be implemented in the next several months. We currently have $15 million set aside for technical assistance and training in our Fiscal year 1980 budget.

Question: How will the office serve to curb fraud and abuse in such CETA programs as Public Service jobs?

Answer: We believe that developing the knowledge and ability to operate good CETA programs is preventive medicine which will help reduce mismanagement which is usually a major factor in incidents of fraud and abuse.

Question: What coordination will there be between this office and the Inspector General's Office?

Answer: Although there will be no direct organization chart link to the Office of Inspector General - OIG, the Office of Management Assistance will utilize OIG recommendations and audits in determining management assistance strategies.

SUPPORT OF AUDIT FINDINGS

Question: During Fiscal Year 1978, what amount of CETA funds did Labor identify as being improperly or questionably expended, and how many prime sponsors were involved?

Answer: Information available from the inception of CETA through September 30, 1978, the end of Fiscal Year 1978, shows that there were $86.6 million in questioned costs involving 288 prime sponsors. The information relates to Department of Labor -DOL- audits of CETA programs received by the Employment and Training Administration. It does not, however, include survey audits performed by DOL or subgrant/subcontract audits performed by prime sponsors.

PERFORMANCE STANDARDS FOR PUBLIC SERVICE JOBS PROGRAM

Question: How do you evaluate the performance of prime sponsors in placing public service jobs participants into unsubsidized employment?

Answer: Prime sponsors establish transition goals as part of their plans for Public Service Employment - PSE - titles and report against these goals quarterly. Performance is assessed in terms of actual results compared to plan. For Fiscal Year 1980 for the first time standards of acceptable performance in this area will be developed. Pursuant to the CETA amendments of 1978, special emphasis will be placed on monitoring and assessment of PSE placement goals and accomplishments.

Question: Are there any incentives for sponsors to perform well in placing people in unsubsidized jobs?

Answer: The new time limitations on Public Service Employment enrollment will significantly increase prime sponsor concern with movement of participants into unsubsidized jobs. In addition, increased Department of Labor emphasis on placement should provide an incentive to sponsors. This emphasis will be implemented through performance standards, regular monitoring of performance data and actual operations, and the yearly formal performance assessment.

Question: What actions can Labor take in regard to sponsors who are not performing well in this area?

Answer: The Department can require corrective action in instances of poor performance. It can only partially or conditionally fund a sponsor at the beginning of the year pending improvement. In very serious cases, the Department could institute action to terminate sponsorship.

Question: What actions has Labor taken in the past in dealing with poor performing sponsors and how many sponsors have been involved?

Answer: The Department regularly requires corrective action by prime sponsors in instances of poor performance. The Fiscal Year 1978 formal performance assessment found a little over 10 percent of all prime sponsors to have serious problems in a variety of areas. These sponsors did not receive full Fiscal Year 1979 approval and funding of their programs until major difficulties were substantially corrected. One prime sponsor has been terminated because of serious problems.

EMPLOYABILITY PLANS IN PUBLIC SERVICE JOBS PROGRAM

Question: Has the Department issued any guidance to prime sponsors as to how to develop meaningful employability plans, including identification of the person's barriers to employment and actions needed to overcome those barriers?

Answer: The draft regulations implementing the CETA amendments of 1978 identify the requirements for participant assessment, including the minimum list of items to be included in an employability development plan (EDP). Over the past 15 years the Department has issued a great deal of guidance and technical assistance material on EDP's. Additional materials and training will be made available to prime sponsors in coming months.

Question: Why hasn't the Department issued any criteria for the prime sponsors to use in determining whether a person is structurally or cyclically unemployed?

Answer: The decision that a person is structurally or countercyclically unemployed is an individual and local determination, dependent on the characteristics, skills, and work history of the participant and on the economic conditions and labor market of a local area.

VARIOUS INELIGIBLE TYPES

Question: We understand that people from the field of religion and teachers on vacation are ineligible but have gotten CETA jobs. Is this true?

Answer: It is certainly possible that teachers on vacation and other persons in similar situations may have gotten CETA jobs. Whether they were technically ineligible for participation would have depended on requirements for the title in which enrolled. It should be noted that, for some programs, e.g., old Title II, specific eligibility requirements were minimal. In any case, such persons would not have fallen into the "most in need" category. New, more stringent eligibility criteria and requirements for checks on eligibility determinations should prevent this type of problem.

Question: How much funding will be necessary to make sample checks for ineligibles as required by the new CETA law?

Answer: Without some experience, it is very difficult to put a dollar figure on the costs of implementing the required management review of all intake/eligibility determination and records on the required detailed verification on a sample of participants. These costs will be absorbed by prime sponsors within their formula allocations.

Question: How much do you think these spot checks will reduce the problem of ineligible enrollees?

Answer: Here again, without some experience it is difficult to place a numerical value on new requirements. The management review of all eligibility determinations should virtually eliminate the problems of incorrect determinations on the basis of information provided and determinations made with insufficient information. This problem has been identified by the General Accounting Office and others as significant. The sample verification requirements should also result in major improvements.

TRANSITIONING FROM PUBLIC SERVICE TO UNSUBSIDIZED EMPLOYMENT

Question: In May 1978, the Department issued written policy guidelines stressing the importance of transition to unsubsidized employment for CETA public service jobs participants.

Do the sponsors have adequate systems in place to help the participants transition? What actions has Labor taken to assure that the sponsors of local public service jobs projects are emphasizing the transition of participants into unsubsidized jobs? Do you believe that the prime sponsors' staffs are adequately qualified and trained to be effective in finding unsubsidized jobs for participants? What technical assistance is provided prime sponsors to assist them in aiding participants in finding unsubsidized jobs?

Answer: The Department's assessment of the general adequacy of present systems to assist participants in obtaining jobs is that over the past several years, the system has performed acceptably, given economic circumstances, changes in the scale and direction of the program, and the increased targeting of the program on people who are poor and have been without jobs for long periods of time. In some cases, the performance of prime sponsors has been quite bad, and has been the subject of corrective action and pressure from the Department during the annual formal assessment process to develop better systems and show results. In other cases, performance has been good.

However, the Department is concerned that the combination of the initial impact of participant time limits on PSE starting in September 1979, and the imperative that prime sponsors gear their systems more totally to the needs of the disadvantaged target population of reauthorized CETA will place a strain on placement systems as they are now and could result in weak performance. Therefore, the new CETA regulations place some emphasis on those elements of the new CETA statute dealing with placement systems such as: assessment of clients' needs during the intake process, leading to an employability development plan required in title II-D, which will be used to route a participant through CETA into a desired employment outcome; requirements that prime sponsors involve State Employment Service Agencies and existing community-based deliverers who are effective in dealing with CETA's target population in the planning and delivery of placement and other client services; requirements that long-term institutional arrangements for the placement of clients be made, and set forth in the prime sponsor's Master Plan; emphasis on the need to link required systems which track how long a participant has been in CETA and notification of the participant of time limitations, with systems to provide intensive pretermination job search assistance.

The May 1978 policy guidelines were contained in a field memorandum to the Regional Offices, and were in followup to an instruction issued in April on the management of CETA public service jobs programs during the balance of Fiscal Year 1978. These guidelines were a compendium of existing regulations and departmental policies requiring that prime sponsors' local CETA systems include specific arrangements for the referral of PSE workers to unsubsidized jobs, and the utilization of the services of the State Employment Service Agencies and other deliverers in pursuing placements.

So the May 1978 guidelines did not represent a new area of policy, rather an emphasis of existing policies in the light of the need to get more people moving through PSE and into jobs as the first year of the Economic Stimulus expansion came to a close, and in view of new proposed limitations on the length of time a participant could remain in PSE.

Since last May, this emphasis has continued. A parallel instruction was sent directly to the State agencies in early July, outlining their responsibilities to CETA clients under the Wagner-Peyser Act and pressing them to offer further specialized services or to negotiate contracts to act as delivery agents for prime sponsors under CETA. During the early fall, CETA and the Employment Service program offices conducted an overview of CETA placement capabilities in a national sample of prime sponsorships. Following on CETA reauthorization, initial policy instruction on the implementation of the new law included minimum requirements for systems to track each participant's time spent in programs, and to trigger job search activities on the part of the participant and the counseling staff. Instructions on modifications implementing portions of the new law effective on January 26, required prime sponsors to indicate the specific steps to be taken to place or transfer into other activities all participants in local-option PSE under old Title I, which was not an authorized activity under new Title II-B and C. Instructions issued at the end of January for mid-year replanning of programs to implement CETA reauthorization in full by its April 1, 1979, effective date, include in detail how prime sponsors are to plan compliance with the new CETA regulations affecting placement of participants.

The Department believes that the guidance issued during the past 10 months at the national and regional level, and the assistance proferred by State Employment Security Agencies -SESA's- to prime sponsors has provided impetus and support for those sponsors with poorly-performing systems, or systems too weak to stand up to the demands of reauthorization, to make major organizational and procedural changes and improvements. By contracting delivery responsibility to SESA's and other organizations with specialized capabilities, or sharing responsibility with them, the Department can ensure adequate training and qualified staff, and acceptable performance. Generally, those prime sponsors that have already entered into cooperative agreements and contracts do have an adequately qualified placement staff under their CETA delivery system. Given the challenges of the new CETA described earlier, the Department believes that continued attention to PSE placement systems, will be required throughout the period of CETA reauthorization.

PUBLIC SERVICE JOBS: REDUCED WAGES

Question: Do you feel prime sponsors will have trouble finding sufficient public service jobs opportunities at the lower wage levels which take effect April 1, 1979?

Answer: There are indications that some prime sponsors may have trouble developing new PSE jobs within the local units of government. However, overall, we feel that sufficient appropriate jobs can be developed. Further, we intend to, and already are

working with prime sponsors to alleviate any problems related to the average and maximum wage levels mandated by the revised Act.

Question: Are there some areas of the country where unemployment insurance or welfare payments will exceed the new, lower-average wage rates for public service jobs?

Answer: There are no specific data available with which to make comparisons in all areas. However, there are indications from some prime sponsors that this is the case in certain areas.

Question: To what extent will the lower public service jobs wage rates turn the program into a low-skill clerical and "leaf raking" operation -- effectively eliminating such categories of work as health aides, recreation leaders, sanitary aides/rat control, and planning aides?

Answer: We do not believe that the new wage rates will turn the program into a low-skill clerical and "leaf raking" operation. We intend to take all steps necessary to see that this does not occur. The new law will require the development of more entry-level positions, but this is consistent with the intent of the legislation.

FORWARD FUNDING

Question: Why didn't the Labor Department request that the CETA program be forward funded, like education programs?

Answer: We are now in the process of discussing this issue with the Office of Management and Budget. We are trying to carefully determine both the advantages and disadvantages of forward funding CETA programs.

Question: To what extent do you think forward funding would prevent a repeat of the current situation, in which CETA project sponsors are simply not spending available funds?

Answer: Forward funding would alleviate underperformance by prime sponsors caused by delays in appropriations and doubt over the level of funding. However, it would not solve underperformance problems caused by changes in program design and new legislative requirements, both of which have also had an impact on the current underperformance situation.

Question: How much forward funding would be necessary -- 6 months or 12 months -- to allow CETA sponsors enough lead time to plan effective programs and prevent serious underspending?

Answer: Prime sponsor plans are developed annually. Therefore, any forward funding should be for a 12-month period.

IMPACT OF FURTHER PUBLIC SERVICE JOBS CUT

Question: If Congress were to cut $1 billion from the CETA Title VI Public Service Jobs programs, how many more jobs would be eliminated by the end of Fiscal Year 1980, assuming the cut became effective July 1, 1979? October 1, 1979?

Answer: It is estimated that approximately 85,000 positions would be eliminated if the cut became effective July 1, 1979. A cut effective October 1, 1979, would eliminate approximately 105,000 positions. Fewer positions would be eliminated over the longer period of time since the percentage of the cut is less over 15 months than over 12 months.

FUNDING SUBSIDIZED JOBS

Question: I note you plan to create 17,000 jobs through the Welfare Demonstration project. Will these be public service jobs?

Answer: We estimate that about 17,000 employment and training opportunities would be created under the program, and that a variety of employment and training approaches will be utilized in carrying out the program. Many of the employment opportunities will be in public service employment. However, we expect that a large number of participants will be employed in on-the-job training programs in the private sector. We also expect that a large number of participants will be enrolled in a variety of training programs. The exact mix of the various program components in each demonstration site will be determined by each of the 15 prime sponsors after taking account of the special needs of their own communities, local economic circumstances, and the needs and characteristics of program participants.

Question: Since PSE jobs are scheduled to be phased down to between 400,000 and 500,000 by the end of 1980, will there be enough of these slots available to accommodate the welfare project enrollees who can't find unsubsidized employment?

Answer: We expect that the 17,000 slots in the pilot program will be sufficient to accommodate all welfare project enrollees in the 15 demonstration sites. When the CETA program was at its highest slot level in FY 1978, it did not serve a very large proportion of welfare recipients. Thus the lower CETA slot level in FY 1979 should not present the 15 sites with any large demand for additional slots to accommodate the needs of welfare recipients who are no longer being served by the now smaller regular CETA programs.

MINNESOTA PROJECT

Question: What is the Minnesota Work Equity Project?

Answer: The Minnesota Work Equity Program -WEP- is a major demonstration project being funded by the Department of Labor, which is providing public service jobs and other employability development services to all employable persons on welfare. The project is intended to demonstrate the ability of CETA and related institutions to create special public jobs on a large scale, and the ability of the various participating agencies, (CETA, Employment Service, Work Incentive -WIN- Program, and the Department of Public Welfare) to coordiante their roles to deliver the necessary jobs, training and support services. It will also demonstrate the employability or job readiness of the welfare population, and permit better estimates of the comparative costs of the job creation

versus income maintenance payments.

The project is operating in St. Paul and a number of counties in southern and central Minnesota. Participants in the balance-of-State areas are employable persons drawn from Aid to Families with Dependent Children.

Question: How much money has been spent on it to date and what is its status?

Answer: To date, $6.9 million for both project planning and operations has been obligated for this project. The Department plans to provide additional funding of approximately $4 million in FY 1979 to permit continuation of operations into early 1980. Further funding to extend the project through the summer of 1980 may subsequently be provided.

The project became operational at the various sites in mid-summer and early fall of 1978. As of the end of January, more than 1,300 persons have been registered. It is expected that annual participation will be over 3,000 persons. But at this point, it seems clear that it is a viable program, and that the planned welfare demonstration projects can likewise be successful in providing needed information on important welfare reform issues.

Question: What results have been achieved that give you reason to believe the welfare demonstration project will work?

Answer: First, it appears that it is operationally feasible to create the special public jobs and to provide the other employability development services necessary to assure that all of the persons in the target population are actively engaged in some service component of the program. That is, there is no pool of employable persons who are receiving no services. Second, there are indications that the project is having success in moving participants completely off welfare through placement in nonsubsidized jobs. Of the 1,300 persons who have registered in the Minnesota project, more than 200 are completely off welfare, primarily due to nonsubsidized job placement. In addition, more than 250 other registrants have participated in specially created public jobs, through which their welfare grants have been substantially reduced.

More detailed information on the projects feasibility and effectiveness will be provided in later analyses by the research contractor.

Question: Will the Minnesota project be one of the 15 welfare demonstration sites? I notice it was not on a site list provided the committee.

Answer: The Minnesota Work Equity Project -WEP- which was being planned well befor the Administration formulated its welfare reform plan, is not one of the 15 welfare demonstration sites, although it has many similarities to the planned welfare demonstration projects. The projects are similar in that both involve the large-scale creation of public jobs and training opportunities in order to fully serve a target population. The differences lie

in the composition of the target groups, the administrative structures for delivering the services, and the nature of some of the services, such as the job search component. Briefly, the welfare demonstration projects will adhere more closely to the Administration's welfare reform proposal, while WEP contains more deviations from this plan. In addition, there will be a uniform research design for the 15 welfare demonstration projects which will permit national estimates of welfare reform effects. Nevertheless, we expect the Minnesota WEP to provide valuable complementary information on important welfare reform issues.

WAGE LEVELS FOR ENROLLEES

Question: Will an enrollee in the Welfare "Demo" receive pay while he is in training? How much will he get and how did you arrive at this?

Answer: Individuals in training will receive compensation equal to the higher of the Federal, State or local minimum wage. The CETA Act requires at least this level of compensation. While higher amounts are authorized by the Act we have decided to pay only the minimum wage for training because (a) training is itself a benefit and (b) fairness argues that trainees should not be paid more than persons working full-time in PSE at the minimum wage.

Question: Would an enrollee who is on welfare be entitled to both public assistance payments and to a wage for engaging in training?

Answer: The CETA Act requires that public assistance recipients receive an incentive allowance of $30 per week during training and this incentive allowance be disregarded in determining public assistance benefits. This payment structure means that welfare recipients can continue to draw public assistance benefits and the incentive allowance while in a training program.

Question: Do you contemplate a ceiling for all payments to enrollees? If so, what is it?

Answer: The Congressionally mandated maximum wage for PSE will be adhered to. This maximum is $10,000 per year, adjusted upward by an area wage index. Since hourly PSE wage rates, when annualized, cannot exceed the $10,000 maximum and since trainees will be paid the minimum wage, this insures that total payments from combined activities cannot exceed $10,000 annually (subject to the area indexing).

RESULTS OF PLANNING EFFORT

Question: I note that you have provided $8 million in FY 1978 and plan to allocate $7 million in FY 1979 for planning of the "Employment Opportunity Program" pilot project. How does this relate to the welfare demonstration?

Answer: The jobs component of the Administration's welfare reform program was called the Employment Opportunity Program. Therefore we named our welfare reform demonstration program the Employ-

ment Opportunity Pilot Program.

Question: How is the money being used--and to whom has it gone?

Answer: The money is being used to support planning and research activities for the welfare reform demonstration program. About 30 percent of the money was given to the 15 prime sponsors participating in the program to enable them to develop plans for the operation of the pilot program in their respective localities. The remainder of the funds will be used to support research and technical assistance activities with most of the money being used to support the following four major contracts:

(1) a research design and evaluation contract;
(2) a baseline survey contract;
(3) a labor market survey contract; and
(4) a management information system design contract.

We are using the competitive process to select the contractors who would carry out these four activities.

Question: What results are--or will be--available from this effort that will be useful to the welfare demonstration project?

Answer: All of the activities supported with these monies will be of direct and important use to the demonstration program. For example, the results from the prime sponsor planning activities will be used in actually implementing the program. The baseline and labor market surveys will be used both for program planning purposes and to evaluate the successes or failures of the program. The research design contract will provide the basis for the evaluation of all demonstration activities. Another result of these efforts will be to make available to the 15 prime sponsors an automated management information system that will for the first time, on a timely and routine basis, provide a detailed profile of program participants, track the progress of participants through the program, and measure the impact of the program on participants' subsequent job experience and income.

REVIEW OF ELIGIBILITY

Question: Your draft regulations for public service jobs require a review of all applications within 30 days of the date of enrollment to determine that the decision to accept an applicant was the right one. Your regulations don't seem to make clear what the prime sponsor has to look for to substantiate this determination. Can you clear this up?

Answer: The 30 day review is basically aimed at assuring that the eligibility form filled out by the intake worker and the applicant is fully completed and that the information on the form does show that the applicant is eligible to participate in CETA programs. If the review indicates that the individual is not eligible or that some information is missing the prime sponsor will immediately take steps to collect and/or verify relevant information. If after the verification process, it is determined that the

applicant was incorrectly determined eligible for whatever reason, the applicant must be terminated from the program.

Question: In their initial review, what information--or lack of information--will be used to determine that an application is "deficient or internally inconsistent" and therefore requires a second review providing immediate verification of eligibility?

Answer: The review is of the application form. It will determine (1) that all necessary and relevant information required by the form has in fact been provided, and (2) that such information does in fact indicate that the applicant is eligible to participate in CETA programs.

WAIVERS OF JOB TIME LIMIT

Question: The new CETA law puts a time limit of 18 months on the period any individual may participate in a public service job. This is designed to reduce the possibility of substituting CETA employees for regular State and municipal workers and to emphasize the transitional nature of the PSE program. However, the Secretary of Labor may waive the time limit in certain circumstances. What are the circumstances under which the Secretary may issue waivers? What policy have you established in regard to the issuance of such waivers?

Answer: The maximum participation period may be waived for up to 12 months, in cases where the prime sponsor has faced unnecessary severe hardships in its efforts to transition public service employment participants to regular public or private employment not supported under the Act and/or in the case of a unit of general local government which qualifies to be a prime sponsor or is served by a balance-of-state, or would have been had it not become part of a consortium and has an unemployment rate of at least 7 percent. The proposed regulations, Section 676.30, spell out the conditions under which an area may be considered for a waiver, but the information must be provided in support of a request for a waiver. The information required in support of a waiver request includes such things as the names of the individuals the prime sponsor wishes to extend, the dates such individuals were hired, the current termination date for such individuals, the length of the extension requested, designation of the efforts made to place such individuals, the unemployment rate in the area, and the reason the extension is necessary.

STAFF EARMARKED FOR FRAUD AND ABUSE CONTROL

You mentioned that you have 2,000 positions nationwide allocated to the Unemployment Insurance Service for benefit payment control.

Question: How many positions have been allocated to the Employment Service and Prime Sponsors to control illegal CETA payments?

Answer: Since CETA was first initiated the Employment and Training Administration -ETA- has allowed local decisions within overall Federal guidelines. Within this framework positions are not allocated/mandated for any particular activity. With the CETA reauthorization an increased emphasis has been placed on control of fraud and mismanagement. Prime sponsors are being required to strengthen or establish monitoring, eligibility control and financial management systems placing the primary emphasis on control of fraud and abuse. For the first time under the new law and regulations, prime sponsor monitoring activity will be centralized in Independent Monitoring Units. This will strengthen both the focus and independence of local level monitoring. These systems must be approved by the Regional Administrators. These requirements are levied on prime sponsors, who, in turn, pass the requirements down to subgrantees/ contractors such as the Employment Service.

Question: Why are there so many less people checking CETA fraud and abuse, even though this program now spends just as much as the Unemployment Insurance Program?

Answer: It is difficult to compare the two programs because "systems" are required for fraud and abuse control in the CETA program rather than allocated positions as in the Unemployment -UI- program. However, we belive that there will be more people engaged in the prevention of fraud and abuse in CETA than those allocated to the UI program. We currently estimate that there will be as many as 5,000 persons working in Prime Sponsor Independent Monitoring Units. In addition to the systems the prime sponsors are required to maintain, the newly established Inspector General's office will be checking on CETA fraud and abuse at the Departmental level. Within ETA the Office of Investigation and Compliance is mounting a special program for the control of fraud and abuse. Prime sponsors are also monitored by some 365 Federal Representatives nationally who have a responsibility in this area.

Question: Would it be fair to say the bulk of CETA problems involve waste and abuse - not outright fraud?

Answer: The bulk of CETA problems do not involve waste, abuse or fraud. The majority of the problems are management related concerns associated with operating a program as large as complex and as dynamic as CETA.

MONITORING PRIME SPONSORS

In responding to GAO's recommendation that steps be taken to make employees more aware of the potential for fraud and to assure that irregularities are promptly reported to appropriate personnel, the Labor Department stated it was setting a goal to establish continuous in-depth assessment of the practices of at least 50 prime sponsors per year, starting with at least 24 in 1979.

Question: Are you going to be able to meet that goal for 1979, and the ultimate goal of 50 by fiscal 1980?

Answer: Yes. In 1979, the Employment and Training Administration -ETA- will monitor 24 prime sponsors and the Department of Labor -DOL- Office of the Inspector General -OIG- plans to monitor 8 additional prime sponsors. ETA definitely plans to monitor at least 50 prime sponsors in 1980.

Question: What proportion of total CETA prime sponsors would these 50 represent?

Answer: Eleven percent of 460 prime sponsors.

Question: Do you think that is an adequate sampling to assess their effectivenss in detecting and preventing fraud and abuse?

Answer: Yes. When we consider that the assessments are continuous by Federal Representatives and other regional staff and that changes will be made to the program regulations to correct any emerging patterns of fraud or abuse. In addition, each of the prime sponsors receives an annual program assessment review by the ETA Regional Office and periodic audits either by the DOL Office of the Inspector General, State auditors or contract auditors.

POLITICAL PATRONAGE AND NEPOTISM

Question: How many CETA public service job cases have been investigated involving alleged political patronage and nepotism?

Answer: Twenty-one cases of political patronage and 37 cases of nepotism. In eleven of the political patronage cases the allegations could not be supported. In five of the nepotism cases the allegations could not be supported.

Question: Give us an exmaple of what you have done, once you uncover abuses such as political patronage and nepotism?

Answer: Corrective action in nepotism cases calls for immediate dismissal of the relative from the CETA program and recovery of any CETA funds that person received.

The city of Chicago was required to reimburse the Department of Labor $1 million for the wages paid to participants hired by political referral. Furthermore, the responsibility for processing and referring CETA applicants to the city was given to the Illinois Bureau of Employment Security, although the city still retained the final selecting responsibility. Finally, for a substantial period

of time, a Federal Monitor was stationed onsite to assure continued compliance by the city.

Question: How do you go about detecting political patronage, and how do you control it?

Answer: Political patronage in CETA programs has been explicitly forbidden by the Enabling Legislation- Section 208(f) of CETA 1973 and Section 121(a)(1) of CETA 1978. Implementing regulations further defined this prohibition and the certification and assurances section of each executed grant explicitly forbid any such activity.

Until this year, the Employment and Training Administration -ETA- had no formal mechanism for detecting political patronage and ETA's successful prosecutions for political patronage were the results of analyses of applicant records initiated by Federal Representatives or by citizens' complaints.

Beginning with Fiscal Year 1979, ETA has instituted a program in which 24 prime sponsors will be monitored during the year for adherence to all CETA rules and regulations including the maintenance of a hiring system devoid of patronage, and 50 prime sponsors will be monitored in FY 1980. The Department of Labor's Office of Inspector General -OIG- plans to monitor 8 additional prime sponsors.

In addition, the OIG will conduct Fraud and Abuse Prevention Surverys which are geared to prevent and to detect political patronage and fraud in CETA programs.

STATUS OF D.C. CASE

Question: What is the status of the case involving the District of Columbia, where CETA money was apparently used to bolster City Council staff and hire ineligible participants?

Answer: The subject file is an active case of the Employment and Training Administration's Office of Investigation and Compliance. Staff is currently costing out the employment of individuals ascertained to have been improperly hired. The prime sponsor will, of course, be afforded the opportunity of providing documentation of proper hiring and placement prior to the final determination.

ASSOCIATED PRESS STUDY OF CETA

In a recent three-part series of articles, the Associated Press reported on its two-month study of CETA, citing ineligible participants, thievery, mismanagement, nepotism, political patronage and so forth.

Question: In one of the articles, the AP quotes Labor Department officials as blaming theirown inability to provide the prime sponsors with good technical advice as part of the problem. It also cited Labor's failure to penalize prime sponsors who mishandle CETA funds. What is your comment on these two matters?

Answer: Federal Representatives and technical specialists have provided significant amounts of technical assistance to prime

sponsors with respect to requirements of the Act and regulations as well as on the general management and conduct of CETA programs since the inception of CETA. However, because of limitations of staff resources, ETA has been unable to provide on a sufficient scale indepth specialized technical assistance in areas such as financial management, management information systems, automatic data processing systems and management analysis. In some cases, some ETA regions have used technical assistance and training funds to contract with firms to assess prime sponsors' capabilities in these technical areas, to provide onsite assistance with management systems and to set up controls which are needed by prime sponsors to manage the CETA program.

The new CETA legislation will require prime sponsors to establish tighter management controls in the areas of eligibility verification requirements and internal monitoring requirements. In addition, the new law establishes the Office of Management Assistance to strengthen the Federal capability to provide specialized technical assistance in such areas as financial management and management information.

With respect to prime sponsors who are determined to have expended funds not in compliance with the law, regulations, or the approved plan, including enrollment of ineligible participants, ETA has disallowed these costs and required repayment of such costs. We are finding, however, that in significant numbers of audit cases, prime sponsors are appealing grant officer decisions on allowance of costs. Some $4.8 million of disallowed costs are presently under appeal, which can take a lengthy amount of time to resolve.

Other sanctions which are available and are used with prime sponsors who mismanage CETA funds are withholding of funds from a prime sponsor's grant until the management deficiencies are corrected; conditional or short funding of grants; discontinuing the method of advance financing to give ETA greater control over prime sponsor financial practices; and, as a last resort, termination of the grant and transfer of prime sponsorship.

Question: Aside from penalizing East St. Louis, Illinois, has the Department ever cut off other prime sponsors because of the way they handled Federal funds?

Answer: East St. Louis is the only prime sponsor to have had their grant terminated. Another prime sponsor was notified that absent substantial improvement in their program performance and correction of deficient Financial Management and Management Information Systems, their grant would be terminated within three months of such notice. As a result of our notice of planned termination, this prime sponsor undertook the necessary actions that had been absent so long in the past to correct their deficiencies and improve their overall program performance.

GAO REPORT

The Department of Labor was one of several agencies which GAO found, in a September 1978 report, had not acted aggressively to detect fraud in their programs and whose practices were inadequate to identify potential fraud.

Question: Do you disagree with that finding as it relates to the Department of Labor?

Answer: While the Department did not wholly agree with the GAO finding that it had not acted aggressively to detect fraud in their programs and felt their practices were adequate to identify potential fraud, it has implemented the recommendations of the GAO report.

The GAO report made five specific recommendations for the Department of Labor to improve its system for preventing and detecting fraud and abuse in Departmental programs and practices. The Department concurred with each of the recommendations and has taken actions to correct the situations which existed when the report was prepared in early 1978. The establishment of the Office of Inspector General in September 1978 has elevated fraud identification to a high agency priority and provided the Department with an efficient instrument with which to prevent and detect further program abuses.

FRAUD AND ABUSE PLAN

In a December 13, 1978, memorandum to the Heads of all Executive Departments and Agencies, President Carter announced his intention to eliminate waste, fraud and error from Federal programs and directed that they submit to OMB by January 31, 1979, a comprehensive plan for the accomplishment of this objective. The plan was to include an analysis of the Agency's audit and investigative resources and capacity to prevent and deal with waste, fraud and error and its planned approaches to the utilization of such resources for this purpose.

Question: Has the Department of Labor submitted such a Plan?

If not, why? If so, would you briefly outline it for us?

Answer: The Department of Labor submitted a comprehensive plan for eliminating waste, fraud and error in Departmental programs to OMB in response to the December 13, 1978, request. This analysis accounted for OIG's total staffing level of 355. Currently, these positions are allocated in the following manner: 90 for Strike Force Activities, 9 in ADP Evaluations, 23 in OIG Executive Direction and Administration, 158 in Audit and 75 in Fraud and Integrity Investigations.

Major OIG initiatives now underway include: (1) the joint audit and investigations Fraud and Abuse Prevention Surveys (FAPS), designed to provide early detection and correction of

grantee weaknesses in order to prevent possible subsequent fraud and abuse; (2) increased participation with the Department of Justice in the Organized Crime Strike Force Program; and (3) implementation of the newly drafted CETA regulations requiring joint audits of grantees.

OUTRIGHT FRAUD

Question: How many cases of outright CETA Fraud are pending in the Labor Department, involving what total amount of money?

Would it be fair to say the bulk of CETA problems involve waste and abuse - not outright fraud?

Answer: Currently the Office of Inspector General is investigating 239 cases in CETA fraud totaling an estimated $9.4 million. In the brief time that OIG has been in operation, a substantial number of CETA fraud cases have been opened and are being investigated. The recently initiated Fraud and Abuse Prevention Surveys (FAPS), which have been designed to review selected grantees to determine the extend of potential fraud and abuse, should enable OIG-within the next year-to more accurately assess the relative proportion of each. At this time OIG does not feel that enough information is available to make valid assumptions as to the degree of outright fraud versus waste and abuse.

UNRESOLVED AUDITS

Question: The GAO also found that the Department of Labor was not complying with OMB Audit Resolution Policy, as expressed in Circular A-73, in at least five respects. What action has the Department taken to correct these deficiencies?

Answer: GAO incorporated its findings relating to Circular A-73 within the six recommendations they made to the Department concerning our audit program. Our responses to these recommendations are listed below:

"1. Agency auditors be required to keep accurate records of all findings until a final disposition has been made--where recovery of funds is involved this means until the funds are recovered, the debt forgiven, or the finding determined to be in error."

Our auditors have been instructed to determine the status of the uncollected debts resulting from audit reports by reviewing the detailed accounts receivable records under general ledger control on a quarterly basis. The auditors maintain records of all findings until final disposition except in those instances where debts are established. We believe this is preferable to having the auditors maintain duplicate records concerning collection of funds which are the functional responsibility of contracting officers and other managers.

"2. Program administrators be given six months to reach decisions on what amount, if any, is due from contractors or grantees as the result of audit findings.

Written decisions signed by the program administrator be required to justify not seeking collection of any amounts shown to be due by the auditor's report. Such decisions should also be reviewed for legality and endorsed by the legal official who performs the review."

The majority of our grant officers, which are located in the Employment and Training Administration, have been instructed that six months is the maximum time available for either establishing debts or obtaining evidence that otherwise resolves audit findings unless individual extensions are obtained from the director for administration in the national office for the appropriate agency.

We agree that the Department's legal officer should review such decisions not to seek collection and provide advice to the grant officer in instances where a legal interpretation of the applicable statutes and regulations would be required.

"3. An official independent of the program administrator and the auditor be given responsibility for deciding whether to make recoveries on findings not decided on within the six-month time frame specified above. Any decisions not to recover should be justified by the official and reviewed for legality as previously mentioned. This official who should be at a high level in the organization, could also handle resolution of audit findings not involving grantees or contractors that are not resolved within a six-month period."

We are in strong disagreement with the recommendation for an independent official to pursue resolution of findings. The recommendation is inconsistent with the normal relationship between auditors and grant officers. The proposal is likely to generate many more problems than it could possibly solve. The grant officer is bound by the same legislative requirements and Departmental regulations as would an independent official. In addition, the Solicitor's Office is the only source for legal advice in the Department and a separate independent official would have to rely on the same legal opinions as are presently available to the grant officers.

Provisions of the Inspector General Act specify that semiannual reports be prepared summarizing activities of the office during the immediately preceding six months. These reports are to include significant problems, abuses, and deficiencies. As a result, we will include problems concerning resolution of audit findings, i.e., establishment and collection of debts. This eliminates, we believe, many of the reasons for recommending that an independent official become involved in the process.

"4. Such officials be required to issue quarterly reports to the agency head on the status of all findings which they are responsible for resolving, including the age and amounts of unresolved findings and results of findings they closed during the period."

Semi-annual reports will now be issued by the Inspector General. In addition, grant officers will be instructed to prepare reports, on the status of all audits which they are responsible for resolving, on a semi-annual basis. These reports will include the age and amount of unresolved audits and results of audits closed during the period and will be provided to the Secretary.

"5. To insure aggressive recovery efforts, accounting and collection controls should be established for any amounts due the government as a result of audit findings."

Changes will be made to the Department's accounting policies and procedures to ensure that accounts receivable are established for debts resulting from audit findings, and the matching of the accounts receivable records to the audit report number.

"6. If the agency decides against collection for any reason, then it should take action to resolve the underlying causes which resulted in the debt. These can include providing technical assistance to help grantees improve operation of the program or changing ambiguous or conflicting regulations which impede accomplishing program objectives."

We concur with this recommendation which was added to the final report.

SUPPORT OF AUDIT FINDINGS

Question: During Fiscal Year 1978, what portion of those identified expenditures did Labor attempt to recover from the prime sponsors?

Answer: Questioned costs from the beginning of CETA through the end of Fiscal Year 1978 for which Determinations and Findings have been issued totaled $38.9 million and involved 183 prime sponsors. Of this amount, $25.9 million were found to be allowable costs after further investigation. The remaining costs of $12.9 million, involving 141 prime sponsors, were disallowed.

Question: During Fiscal Year 1978, what portion of these funds were actually recovered, involving how many sponsors?

Answer: From the inception of CETA through the end of Fiscal Year 1978, a total of $3.2 million, involving 70 prime sponsors, has been recovered through cash repayments or offset, including one voluntary repayment.

Question: What is the present status of the remainder of the funds, and how many sponsors are involved?

Answer: Of the remainder $178 thousand involving 2 prime sponsors, have either been compromise or terminated; $4.9 million involving 19 prime sponsors, are under appeal; and $4.8 million, involving 33 prime sponsors, are in some stage of debt collection.

APPLE WORKERS

Question: Why did the Department believe it was prudent to advance funds to the CETA sponsor in Puerto Rico to transport workers to mainland growers for the 1978 Apple Harvest knowing that possibly little, if any, of these costs would be reimbursed by the growers?

Answer: In this case several factors were present that justify the action taken by the Department. Initially, there is the excessively high unemployment rate in Puerto Rico, reported to be as high as 35% in rural areas, among persons who were expected to be qualified to pick apples.

Monies were advanced to workers who were referred from Puerto Rico pursuant to growers specific job orders which sought domestic workers. The travel funds were intended only as an advance which would be recouped pursuant to the regulations governing the admittance of temporary alien workers.

WORKERS'AIRFARE

Question: Were CETA Title III funds used to support a $250,000 letter of credit to the CETA Title III sponsors in Puerto Rico for airfare of workers coming to the mainland for the 1978 Apple Harvest?

Answer: Yes. A letter of credit was extended to Puerto Rico to utilize up to $250,000 of CETA Title III funds to provide for airline tickets. However, only $128,007 of these funds were used for airline tickets.

APPROPRIATENESS OF EXPENDITURES

Question: The major purpose of CETA Title III, Section 303, appears to be to enhance the employability of migrant and seasonal farmworkers to relieve their dependence on seasonal farmwork. Therefore, does the Department believe the payment of transportation and other costs to make Puerto Rican workers available to mainland growers to pick apples for only several weeks is an appropriate expenditure within the Act's intent?

Answer: The specific statutory provision, pursuant to which travel funds were advanced, is in Section 303 of CETA. This provision provides, among other things, that the:

> Congress finds and declares that... chronic seasonal unemployment and underemployment in the agricultural industry...constitute a substantial portion of the Nation's rural manpower problem and substantially affects the entire national economy... Funds available for this section shall be expended for programs and activities consistent with the purposes of this section....

The Department has issued regulations implementing programs under this provision. The regulations specifically articulate the types of program activities available under CETA Section 303.

One of the general objectives is to provide services to enable farmworkers to improve their employment opportunities and economic self-sufficiency. Such services may include the providing of transportation and the travel costs to enable participants to obtain employment.

In addition, the Immigration and Nationality Act's direction that foreign workers may only be admitted if unemployed persons capable of performing such service or labor cannot be found in this country provides an additional reason for the Department to make every effort to assist domestic agricultural workers to obtain jobs. Thus these persons also fall within the class of persons the literal language of the INA seeks to protect.

APPLE HARVEST COORDINATION

Question: Did the Department coordinate with all CETA Title III sponsors on the mainland to recruit workers for the 1978 Apple Harvest? If not, why?

Answer: The Department did coordinate and solicit the support of all appropriate CETA Title III sponsors on the mainland to recruit workers for the 1978 Apple Harvest.

EXPERIENCE

Question: Were all the Puerto Rican workers transported to the mainland experienced in farm or orchard work?

Answer: We do not have records available to determine if all workers recruited were experienced in farm or orchard work. The Department does not believe that previous experience is an appropriate requirement for apple pickers.

The Puerto Rico Department of Labor certified that all workers referred were willing and able to do the work as described in the job orders submitted by growers. Further the U.S. workers met the standard for qualifications contained in Sections 1101(a) (15) (h) (ii), 8 U.S.C., which provides for the admission of temporary alien workers, only; "if unemployed persons capable of performing such services or labor cannot be found in this country."

ELIGIBILITY

Question: What percent of the workers recruited in Puerto Rico under a CETA Title III grant for the 1978 apple harvest were eligible under this title?

Answer: None of the workers were ineligible under Section 303 of CETA. Approximately 30 percent of the workers recruited in Puerto Rico were eligible under the CETA regulations which implement that provision.

ELIGIBILITY

Question: When the Department participated in recruiting workers in Puerto Rico did it anticipate that the majority of the workers would not be eligible under Title III?

Answer: The Department had no way of knowing how many of the workers recruited in Puerto Rico would be eligible for CETA Title III funds. This criteria was not germane to the job order. None of the workers were ineligible under Section 303 of CETA. Approximately 30% of the workers recruited in Puerto Rico were eligible under the CETA regulations which implement that provision.

INELIGIBLE WORKERS'COSTS

Question: Is the Department using CETA Title I funds to pay all the costs of transporting, housing and feeding the Puerto Rican workers who were not eligible under Title III?

Answer: Yes. The Department has and will continue to use CETA Title I funds to pay for the costs of transportation, housing and feeding of Puerto Rican workers who were not eligible under the Title III regulations.

EXPENDITURE TYPES

Question: What expenditures by type have been incurred by CETA Title III sponsors to provide Puerto Rican workers for the 1978 Apple Harvest?

Answer: Expenses incurred by CETA Title III sponsors were transportation and subsistence costs to the work site which are to be borne by the employer under the regulations. When the employers refused to hire the workers or terminated them after a very brief period, it became necessary to provide food, lodging and return transportation for these workers.

DOCUMENTATION OF WORKERS

Question: What documentation has the Department required from Puerto Rico and other affected CETA sponsors to support the categorizing of workers as eligible or ineligible under Title III?

Answer: The Puerto Rico CETA Title III sponsor has determined the eligibility of all of the workers. Documentation is on file in Puerto Rico. A complete list of the workers as to eligibility or non-eligibility has been supplied to affected CETA sponsors so that expenditures may be uniformly charged to Title III or Title I.

EXPENDITURES VERIFICATION

Question: What has the Department done to verify the expenditures CETA Title III sponsors are claiming in connection with the 1978 harvest?

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Answer: The Department has asked and received notarized statements of expenditures from each Title III sponsor. These expenditures will be verified during the normal audit of the sponsor.

REIMBURSEMENT BY GROWERS

Question: Are the growers going to reimburse the Department or the CETA sponsors for any of the expenses incurred during the 1978 apple harvest for transporting, housing, and feeding the Puerto Rican workers?

Answer: All growers who are required by regulation to reimburse will be given the opportunity to reimburse. Those growers who decline to accept the opportunity to reimburse will be considered for such action as appropriate. Several growers have indicated that they will reimburse, while others have indicated they may not reimburse.

ELIGIBILITY FOR UNEMPLOYMENT BENEFITS

Question: Individuals in similar situations in different States may or may not be eligible for UI benefits. Because of the increased Federal involvement in the UI system--providing loans to States and funding emergency UI programs--should there be standard eligibility requirements among the States?

Answer: One of the major reasons that UI was legislated originally as a Federal-State cooperative program was the inability of Congress, at that time, to agree upon a group of eligibility requirements that would apply nationally. The reason was the differing economic, geographic, demographic and political characteristics among regions and States of the country. A common set of eligibility requirements would be but a prelude to national benefit standards (weekly benefit amounts, partial benefit formulas, and maximum benefit amounts) and national disqualification standards.

It is true that there has been increased Federal involvement in the UI system in the form of loans to States. However, the unemployment insurance system was called upon during the last recession to finance unemployment far beyond what it was financially designed to handle. An additional .2 percent tax has been in effect since January 1, 1978, and will remain in effect until the Federal trust fund debt is repaid. Of the 25 States which had to borrow, 7 have repaid their debts, leaving 18 States with loans outstanding. We project that many of these States will have sufficient revenues to repay their loans within the next couple of years. Most of the State debts would have been repaid had the loan repayment provisions in the UI law taken effect. However, Congress has enacted deferral to such repayment provisions from 1975 through 1980.

Congress and the Administration has established an independent commission to review the objectives of the unemployment insurance system along with many very fundamental questions about the system. The National Commission on Unemployment Compensation is currently meeting and will be addressing the question of variations between States, the Federal and State roles, as well as the need for Federal standards.

UI NEEDS TEST

Question: Should a needs test be used in determining UI benefits?

Answer: No The introduction of a needs test would be detrimental to the unemployment insurance program which has always considered benefits an earned right of qualified workers when they became unemployed. Even a modified needs test would change entirely the fundamental program objective of replacing a portion of lost wages over temporary periods of unemployment. With a needs test, there would be no point in relating benefits to wages instead of to the needs of the individual. Thus, with a needs test there would be little difference between unemployment benefits and welfare. In addition, it would no longer be possible to make payments reasonably quickly (to the advantage of both the individual and the economy). Delays would inevitably occur because of the need to establish and confirm the economic status of each claimant.

UI BENEFITS LIMITATION SAVINGS

Question: How much would be saved if unemployment benefits were limited to those with income below 125 percent of the poverty level?

Answer: If only the poverty level for individuals is considered ($3,140 for 1978) from 80% to 90% of current claimants would be eliminated from the program (with 125 percent ($3,925) the cutoff point). If the poverty level for a family of four is considered ($6,200) about 50% of all current claimants would be eligible for benefits (with $7,750 of cutoff point). The percentage of cost savings would be even greater than the percentage of claimants eliminated since relatively higher weekly benefit amounts are payable to those who would be cut out of the program. The actual dollar figures cannot be determined because the benefit levels vary for those who would be ineligible at the cutoff points.

UI NET COMPENSATION/BENEFITS DURATION RELATIONSHIP

Question: Has there been research concerning the relationship between the percentage of net wages replaced by compensation and the duration of benefits received? If so, what did it show and what, if any, changes to the program are being considered?

Answer: Although appropriate data are hard to obtain, a small body of empirical research has been conducted to investigate the question of whether the level of the weekly benefit amount or the wage replacement fraction the amount represents affects the duration of unemployment and of UI benefits. Studies, though flawed, have been quite consistent in finding a small but statistically significant relationship between the weekly benefit amount and the duration of unemployment.

Using interstate comparisons, Ehrenberg and Oaxaca estimated that increasing the wage-loss replacement ratio from .4 to .5

would raise the duration of insured unemployment 1.5 weeks for men aged 45 through 50, .3 weeks for women aged 30 through 44, .2 weeks for men aged 14 through 24, and .5 weeks for women aged 14 through 24. While these results were expressed in terms of gross wage replacement, the different benefit amounts considered would entail changes in net replacement as well.

Also using interstate comparisons, Holen found that a $10 increase in benefits would raise insured unemployment duration by .8 weeks. Classen, using data from a single State (Pennsylvania) where between 1967 and 1968 there had been an increase in the weekly amount, found that the liberalization had a statistically significant positive effect on unemployment duration as measured by duration of benefits received. She estimated that a $10 increase in the weekly amount would result in a 1.1 week increase in duration.

Though such research findings tend to support the UI-work disincentive hypothesis, they do not necessarily point to the position that current benefit levels are generally too high. Even though UI benefits may increase the duration of unemployment, the prolonged job search period may have a positive short-term and long-term effect on subsequent employment. Some empirical research has been conducted on the effect of the prolonged job search period on subsequent earnings of beneficiaries, but findings are inconclusive. Evaluation is also needed of what happens to beneficiaries' earnings, skills and long-term career direction with and without UI benefits.

Factors other than labor market efficiency must also be considered in setting the weekly benefit amount. Of paramount importance, given the fundamental objective of UI (providing income for the unemployed), the level of the weekly benefit amount should be "adequate" from the income maintenance point of view. It is by no means clear that present benefit levels result in excessive wage replacement for the majority of claimants. A recent study in Arizona showed that while a significant number of claimants are compensated a relatively high percent of net wages, about 41 percent of the total received the equivalent of less than half of their prior net wage. Because of the statutory maximum placed on the weekly amount, it is of course higher wage claimants who tend to fall in the latter category.

An approach to the management of the work disincentive effects of unemployment insurance that is presently being given heavy emphasis is a more intensive scrutiny of claimants with regard to meeting the able and available and work search provisions of the State UI laws. The new Eligibility Review Program now in use nationwide is an attempt to improve this important part of the claims administration process.

Legislative approaches to the problem include the recent change in the Internal Revenue Code (with respect to 1979) to make unemployment insurance benefits taxable above specified annual income levels. This change should result in a small selective reduction of the highest UI net wage replacement factions.

UI ALTERNATIVE FUNDING MECHANISMS

Question: Has the Department explored alternative funding mechanisms for the unemployment insurance program? If so, discuss viable options indentified.

Answer: The Department has not explored alternative funding mechanisms to the extent any viable options have been identified. The National Commission on Unemployment Compensation is studying this question and we are working closely with them. They are working toward a final report by July 1, 1980.

ACTION TAKEN ON FRAUDULENT UI CLAIMS

Question: You indicate that from July 1976 through June 1977, about $43 million in alleged fraudulent unemployment insurance benefits were paid to claimants.

What action was taken on these fraudulent claims?

Answer: This represented 122,461 individual cases. Each of these cases was assessed an administrative penalty and/or prosecuted criminally for fraudulently claiming benefits. Prosecutions were recommended in 12,195 such cases of which 4,506 were convicted. In addition, $15.9 million of fraudulent overpayments (not necessarily the identical same cases) were recovered during this period.

FRAUDULENT CLAIMS

Question: Do you have any figures on fraudulent unemployment insurance claims since June 1977?

Answer: Yes. During the 12 month period ending with June 1978, 126,636 fraudulent cases were detected. Fraudulent benefit overpayments amounted to $45.7 million. Each of these cases was assessed an administrative penalty and/or prosecuted criminally. Prosecutions were recommended in 11,559 cases of which 5,950 were convicted. During this period $18.6 million in fraudulent overpayments was recovered.

FRAUD REDUCTION

Question: Is there any concrete evidence that the incidence of fraudulent unemployment insurance claims has been reduced since 1977?

Answer: No. We have no data as to the total number of fraudulent benefit claims. However, the number of fraud cases detected has increased 56 percent since 1975. One of the purposes of fraud detection is to deter others from filing fraudulent claims. Presumably, the increased detection activity together with the resulting publicity has acted to reduce the incidence of unemployment insurance fraud.

BENEFITS CONTROL PROGRAM SAVINGS

Question: How much do you estimate is saved annually as a result of your unemployment benefits control program in relation to the cost?

Answer: Probably the most definitive figure of the amount saved as a result of the benefit payment control program is the amount of overpayments recovered. For the 12-month period ending June, 1978, a total of $58.6 million of improper payments was recovered. (This includes both fraud and non-fraud overpayments). This may be compared with the cost of operating the benefit payment control program for fiscal year 1978. For that period, 2,124.7 positions were used at an estimated cost of $43.5 million.

Additional, but undetermined amounts are saved by (1) discontinuing the payment of benefits to individuals who are determined to be filing improper claims and (2) by assessing an administrative penalty, applicable in fraud cases, which disqualifies the individual from drawing benefits for a number of weeks. The number of weeks varies, usually up to 52 weeks, depending on State law.

Furthermore, the detection of improper payments deters others from filing fraudulent claims. How mush is thus saved cannot be estimated but is believed to be substantial.

ANNUAL TRADE FIGURES

Question: Please provide the annual figures for Trade Benefit Payments and Administrative Costs (Grants) for FY 1975 through FY 1980.

Answer:

	Benefit Payments	Administrative Costs
1975	$12,796,000	2,200,000
1976	87,229,000	2,200,000
TQ	69,904,000	700,000
1977	151,282,000	8,800,000
1978	259,760,000	9,700,000
1979 (est.)	265,000,000	10,600,000
1980 (est.)	300,000,000	12,700,000

SUBCOMMITTEE RECESS

Senator BURDICK. So at this time the subcommittee will recess until 10 a.m. tomorrow when we will continue Labor Department appropriations hearings in S-128 of the Capitol.

The meeting is adjourned.

[Whereupon, at 3:15 p.m., Wednesday, February 21, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, February 22.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

THURSDAY, FEBRUARY 22, 1979

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

The subcommittee met at 10 a.m. in room S-128 of the Capitol, Senator Thomas F. Eagleton presiding.

Present: Senators Eagleton and Schweiker.

DEPARTMENT OF LABOR

LABOR-MANAGEMENT SERVICES ADMINISTRATION

STATEMENT OF JACK A. WARSHAW, DEPUTY ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS

ACCOMPANIED BY:

IAN D. LANOFF, ADMINISTRATOR, PENSION AND WELFARE BENEFITS PROGRAM
CARL H. ROLNICK, DIRECTOR, OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT
CHARLES G. GEORGE, DIRECTOR, OFFICE OF ADMINISTRATION AND MANAGEMENT
ERNEST J. GERMAN, DIRECTOR, OFFICE OF PLANNING, EVALUATION, AND SYSTEMS
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
WILLIAM T. FURMAN, ACTING DIRECTOR, OFFICE OF BUDGET
JEFF R. HART, EXECUTIVE ASSISTANT TO THE DIRECTOR, PENSION BENEFIT GUARANTY CORPORATION
WILLIAM M. DeHARDE, DIRECTOR, OFFICE OF PROGRAM OPERATIONS, PENSION BENEFIT GUARANTY CORPORATION
MITCHELL L. STRICKLER, DEPUTY GENERAL COUNSEL, PENSION BENEFIT GUARANTY CORPORATION

BUDGET REQUEST

Senator EAGLETON. Good morning, ladies and gentlemen. The subcommittee will be in session.

We will begin with the testimony on the fiscal 1980 budget request for the Labor-Management Services Administration, and the Pension Benefit Guaranty Corporation.

We will hear the prepared statements from both these organizations before we start the questions, since both have the responsibility for administering a portion of pension reform legislation. We

will then ask questions pertaining to other responsibilities of the Labor-Management Services Administration.

Here to present the $53,941,000 budget request for the Labor-Management Services Administration is Deputy Assistant Secretary, Jack Warshaw, to be followed by Jeff Hart, Executive Assistant to the Director of the Pension Benefit Guaranty Corporation, which requests $74,514,000.

Mr. Warshaw, please introduce your associates.

INTRODUCTION OF ASSOCIATES

Mr. WARSHAW. On my right is Mr. Lanoff, who is the Administrator of the Office of Pension and Welfare Benefits Program. To his right, Mr. Carl Rolnick, Director of the Office of Labor-Management Standards Enforcement. To his right, Mr. William Furman, the Department of Labor Office of Administration and Management.

To my immediate left is Mr. Charles George, the Director of the Office of Administration and Management of LMSA. To his left is Mr. Ernest German, who is the Director of the Office of Planning, Evaluation, and Systems.

The gentlemen at the far end of the table are the members of the Pension Benefit Guaranty Corporation, Mr. Hart, Mr. DeHarde, and Mr. Strickler.

Senator EAGLETON. Thank you very much. You may proceed.

Mr. WARSHAW. If you prefer, I can have this statement either submitted for the record, or read it. It is not terribly long, why don't I read it.

[The statement follows:]

STATEMENT OF JACK A. WARSHAW

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you to present the fiscal year 1980 budget request for the Labor-Management Services Administration. Our total budget estimate is $53,941,000 and 1,325 positions. This is an increase of $1,588,000 and a decrease of 59 positions from the 1979 budget.

The decrease of 59 positions conforms with the President's goals of reducing the budget deficit and controlling inflation, and with the Civil Service Reform Act of 1978. These reductions will involve some restraints in all LMSA programs, but we plan to maintain our major regulatory enforcement and worker protection activities at least at 1979 levels. We can achieve this by reexamining our goals and objectives, readjusting our agency priorities, and by channeling resources into those areas where they can be most effective.

The budget request does provide for a small increase in dollars amounting to about three percent over last year's budget. The majority of this increase is to cover mandatory costs of salaries and other expenses needed to continue operations at the reduced level. Without the savings from the reduction of 59 jobs we would have had to seek an increase twice as large as our budget request provides.

In addition to mandatory cost increases, our budget reflects proposed dollar increases in two program areas. The first, for $240,000, is to cover the net cost of increases for the single filing agreement between our Pension and Welfare Benefits Program activity and the Internal Revenue Service. The second, for $100,000, is to develop a computer-based investigative support systems to assist enforcement of the Labor-Management Reporting and Disclosure and Employee Retirement Income Security Acts.

Let me turn now to some of our major program plans for fiscal year 1980. One of our primary goals in the Labor-Management Standards Enforcement program is to provide maximum available resources for the investigation and resolution of complaints received from union members and the public. To achieve this goal, we are expanding our field compliance staff by converting administrative support and

national office positions. Through this concentrated effort, we expect to reduce the backlog of union member complaint cases by 62 percent from the 1979 level. Union election investigations and supervised elections are expected to increase moderately in 1980 and will still receive top priority. Self-initiated programs will remain near 1979 levels.

Our other major activity, the Pension and Welfare Benefits Program, will operate with 26 fewer positions in fiscal year 1980, but increased staff productivity and some programmatic changes should enable us to maintain program effectiveness. Our major goals will be continued improvement of the quality and efficiency of the compliance program—an effort that began in 1978. Since that time, we have significantly increased the proportion of productive field time spent on investigative work. This trend will continue in 1980 and is reflected in our plan to reallocate 18 national office positions to the field investigative staff. These positions will be used primarily to complete fiduciary investigations which are key elements of the compliance program.

The remainder of LMSA's worker protection programs will continue to be administered generally at 1979 levels. Some growth in backlog will occur, especially in cases related to the Urban Mass Transportation Act, as the number of applications for certification of employee protection increases, but we believe these backlogs can be kept to reasonable levels.

Our Executive Direction, Management and Support activity will be reduced by 25 positions in 1980. We are currently implementing the recommendations of an organizational and systems review that should enable us to maintain our ability to provide the same level of service as in the past despite the staff reduction.

Mr. Chairman, I thank you for the opportunity to present our programs to the Subcommittee. My staff and I will be glad to respond to any questions that you may have.

OPENING STATEMENT

Mr. WARSHAW. Mr. Chairman, our total budget estimate is $53,941,000, and 1,325 positions. This is an increase of $1,588,000, and a decrease of 59 positions from the 1979 budget.

The decrease of 59 positions conforms with the President's goals of reducing the budget deficit and controlling inflation, and with the Civil Service Reform Act of 1978. These reductions will involve some restraints in all LMSA programs, but we plan to maintain our major regulatory enforcement and worker protection activities at least at 1979 levels. We can achieve this by reexamining our goals and objectives, readjusting our agency priorities, and by channeling resources into those areas where they can be most effective.

The budget request does provide for a small increase in dollars amounting to about 3 percent over last year's budget. The majority of this increase is to cover mandatory costs of salaries and other expenses needed to continue operations at the reduced level. Without the savings from the reduction of 59 jobs we would have had to seek an increase twice as large as our budget request provides.

In addition to mandatory cost increases, our budget reflects proposed dollar increases in two program areas. The first, for $240,000, is to cover the net cost of increases for the single filing agreement between our Pension and Welfare Benefits Program activity and the Internal Revenue Service.

The second, for $100,000, is to develop a computer-based investigative support system to assist enforcement of the Labor-Management Reporting and Disclosure and Employee Retirement Income Security Acts.

Let me turn now to some of our major program plans for fiscal year 1980. One of our primary goals in the Labor-Management Standards Enforcement program is to provide maximum available resources for the investigation and resolution of complaints received from union members and the public.

To achieve this goal, we are expanding our field compliance staff by converting administrative support and national office positions. Through this concentrated effort, we expect to reduce the backlog of union member complaint cases by 62 percent from the 1979 level.

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Mr. Chairman, I thank you for the opportunity to present our programs to the subcommittee. My staff and I will be glad to respond to any questions that you may have.

COMPLAINTS

Senator EAGLETON. Give me some illustrative examples of the most commonly received complaints that your department receives. I'm referring to the middle of page 2.

Complaints received from union members and the public. What are some typical complaints?

Mr. WARSHAW. These are complaints that arise under the Labor-Management Reporting and Disclosure Act. Typically the complaints are from members of unions who may be protesting the way a particular election was handled within the union structure.

Title IV of the LMRDA provides for certain safeguards and certain standards for running union elections, internal union elections, and this is the top priority within that program.

Other kinds of complaints that we receive from members of unions would generally go to the safeguarding of union funds and the accuracy of financial reports that are required to be filed by unions with the Department of Labor.

SAFEGUARDING UNION FUNDS

Senator EAGLETON. The safeguarding of union funds, is that separate and distinct from the safeguarding of union pension funds?

Mr. WARSHAW. Yes, although there could be some area of overlap.

Senator EAGLETON. Which office has jurisdiction to safeguard union pension funds?

Mr. WARSHAW. Mr. Lanoff's operation would handle that.

Senator EAGLETON. Give me your title again?

Mr. LANOFF. Administrator of Pension and Welfare Benefits Program, Department of Labor.

Senator EAGLETON. ERISA is primarily your baby?

Mr. LANOFF. That's right.

Senator EAGLETON. Do you report through Mr. Warshaw?

Mr. LANOFF. That is right.

Senator EAGLETON. So it becomes your baby up to the Secretary of Labor; is that correct?

Mr. WARSHAW. That is correct.

IMPROVED EFFICIENCY

Senator EAGLETON. Now, throughout your short statement, you seem to be telling us that lots of other things are going to get top priority; you could handle these things even faster and quicker than you've handled them before; you keep the programs at the 1979 levels.

You paint a very, very rosy picture. You are going to be a lot more efficient, timely, current, judicious, and you are going to do it with 59 less people?

Mr. WARSHAW. We are going to try.

Senator EAGLETON. I'm not trying to jack it up; but you requested an increase of $1.5 million as a percentage of $53 million, that is about 3 percent?

Mr. WARSHAW. That is correct.

Senator EAGLETON. Normal inflation cost is what, now? Seven is the guideline.

What is the rate of inflation for the past 3 months on an annualized basis? Nine?

UNION MEMBER COMPLAINT INVESTIGATIONS

How big is that backlog of union member complaint cases, as indicated on page 2?

Mr. ROLNICK. At the end of 1978, there were 543; and it remained fairly stable.

Senator EAGLETON. All right. What is the age of the typical complaint case?

Mr. ROLNICK. That might range from 2 months to 2 years.

Senator EAGLETON. Why do some take 2 years?

Mr. ROLNICK. In our order of priorities, elections have a 60-day statutory mandate, regardless of the size. We get 60 days to complete the case and present it in court, if it is actionable, regardless of whether it is a local union of 20 members, or the steelworkers of more than 1 million members.

So elections take the first priority with all the needed manpower.

The elections that the Secretary supervises are the second priority, and again we apply as much of our resources as necessary to that.

Our remaining resources are utilized primarily on the union complaint cases.

UNION ELECTION CASES

Senator EAGLETON. Were you all involved, for instance—you mentioned the steelworkers. How many members, 1 million members?

Mr. ROLNICK. 1,500,000.

Senator EAGLETON. Were you involved in the steelworker election, Mr. McBride and——

Mr. ROLNICK. Yes, sir. We had a complaint on that national election. We investigated over 700 local unions in the steelworkers.

Senator EAGLETON. And when you've got a massive case of that size, doesn't that put enormous strains on your personnel, to the exclusion of almost everything else?

Mr. ROLNICK. Absolutely. In fact, we didn't have enough personnel. We had to go to the Secretary and secure approximately 100 wage-hour investigators to help us out. We had 250 field personnel assigned to that case, plus about 25 in the National Office.

Senator EAGLETON. What is the art of predictability in this area? That is, how well can you forecast down the line in a fiscal year that you are going to get hit with one or two overwhelming cases?

Mr. ROLNICK. The predictability isn't that predictable. Our contacts with the major international unions let us know what is in the pipeline. In other words, if they receive a complaint which they have to process, they let us know.

But on the national elections, we just follow the media, the campaigning, and in some cases we can predict it is going to come to the department; other are totally unpredictable.

Senator EAGLETON. When you got these other personnel, these were people employed by the Labor Department, and they loaned them to you?

Mr. ROLNICK. That is correct.

Senator EAGLETON. How effective are loan personnel, vis-a-vis trained personnel? Do you get about an 80 percent functionability, or 60 percent?

Mr. ROLNICK. I would say approximately 90 percent. They've given us some very good personnel. We team them up with an experienced LMSA investigator, and they have been very useful and very productive in the past.

PENSION AND WELFARE BENEFITS

Senator EAGLETON. Let's move down to the welfare benefits program.

This is ERISA, Mr. Lanoff.

Mr. LANOFF. That is right.

Senator EAGLETON. Twenty-six fewer positions. Have you had to fire anybody, or will you do it through attrition?

Mr. LANOFF. Through attrition. These 26 will not be coming out of either the enforcement aspect of the program or the aspect of

the program that handles regulations and rulings. The 26 positions will basically be coming out of two national office units, the communications office and the office responsible for receiving and processing reports.

Senator EAGLETON. Now, I can't recall exactly the date of the newspaper stories, but in recent months, I have been reading in the periodical literature of the problems of the risk, and the magnitude of the number of pension systems that may go bust, and the potential exposure of the Federal Government in making whole defaulted pension programs.

Pardon my terminology. I've read these articles. There's been more than one. I've read three or four, or scanned them at the very least.

If those sort of dire predictions that the journalists are making are accurate, how are you going to do all the work and protect the Government and settle for 26 fewer positions?

Mr. LANOFF. The basic responsibility for providing termination insurance to the employees is with the Pension Benefit Guaranty Corporation. It is not under my jurisdiction.

However, our basic mandate in this area, and what we strive to do, is to make sure there are not losses to the plan as a result of fiduciary breaches in the plan.

Senator EAGLETON. You are to check on fraud, thievery, et cetera?

Mr. LANOFF. Basically, yes.

Senator EAGLETON. How are you going to do it?

My God, every day we hear some testimony about fraud. You read about it in the papers, and talking generically, the inspector generals, the GSA scandals. How are you going to do your job with 26 fewer people?

Mr. LANOFF. We have converted what was formerly a field staff engaged in technical assistance into a fiduciary investigation field service. We have primarily made that the key point of national policy during the past year.

We have instructed our field people to spend 85 percent of their time initiating and conducting fiduciary investigations of pension plans.

We have a program of self-initiated enforcement. We review annual financial reports filed with us, and attempt to identify potential violations and prioritize our investigations.

We have also entered into agreements with other agencies who have enforcement responsibility in the pension field, hoping to avoid unnecessary duplication and to expand our own resources.

For example, we have recently entered into an agreement with the Internal Revenue Service under which their compliance agents and our compliance officers will be in effect doing the work of the other agency by bringing in checklists of potential violations that interest the other agencies and then exchanging them.

So in a sense we will have a thousand IRS agents identifying potential fiduciary violations for us.

These are the kinds of agreements we've attempted to enter into.

URBAN MASS TRANSPORTATION

Senator EAGLETON. Mr. Warshaw, on page 3, what are these cases that relate to the urban mass transportation? What is your participation with this?

Mr. WARSHAW. The Department of Labor has the responsibility to approve requests for funds that are addressed to the Department of Transportation, in connection with any capital improvements, for example, that may be sought by an urban mass transportation system; and in that respect there is a provision of law, 13–C of the Urban Mass Transportation Act, which provides that workers can be in no way disadvantaged or worsened as a result of any of these Federal funds that are being obtained.

Senator EAGLETON. Be a little more specific. Give me a typical problem or case that arises under this.

Mr. WARSHAW. I think perhaps that Mr. Yud, who is in the audience, can give you some typical examples.

Senator EAGLETON. Stand up, Mr. Yud.

Mr. YUD. A typical grant might be for Federal assistance to be used to acquire a private system, and continue it under public ownership.

In the Washington, D.C., area, there have been grants to establish Metro and grants to purchase new buses, for example.

Senator EAGLETON. OK. Now, take either one of those.

What is the Department of Labor's handle, or angle, or whatever it would be, on the acquisition of a previously privately owned transportation company?

Mr. YUD. Section 13–C requires that before the Secretary of Transportation can approve such a grant under the act, the Secretary of Labor must certify that arrangements have been made to protect the interest of employees.

The two primary areas of concern would be, first, in connection with an acquisition project, that the workers' rights and benefits established in their private sector status, would not be worsened when they converted to public status.

One area of concern there would be collective-bargaining rights, and another would be pension rights.

In the case of a capital improvement project, it would probably relate to technological change, the phasing out of skills, or the introduction of labor saving equipment.

PENSION BENEFIT GUARANTY CORPORATION

Senator EAGLETON. Thank you.

We will turn now to Mr. Hart, who has a statement on the Pension Benefit Guaranty Corporation.

[The statement follows:]

STATEMENT OF JEFF R. HART

Mr. Chairman and members of the Committee, it is a pleasure to appear before you to present the fiscal year 1980 budget plan of the Pension Benefit Guaranty Corporation.

The Pension Benefit Guaranty Corporation (PBGC) was established under the Employee Retirement Income Security Act of 1974 (the Pension Reform Act) as a self-financing, Government-owned corporation. PBGC is charged with guaranteeing the basic benefits of private, defined benefit pension plans. Our major source of

revenue is the mandatory premiums collected from the approximately 80,000 pension plans covered by our program. The Corporation receives no appropriations from the Congress.

Our fiscal year 1980 budget plan consists of two activities: Activity 1 (administration) requiring $20,713,000 in spending authority and 502 positions; and Activity 2 (benefit payments and annuity purchases) requiring $53,801,000. This figure is comprised of $33,801,000 for payments and $20,000,000 for annuity purchases.

I would like to emphasize a few specific aspects of this budget plan.

First, the plan requests spending authority for administrative costs at a level $2,525,000 below the estimate for fiscal year 1979. This reduction is based primarily on the decrease in PBGC's budgeted positions from 544 to 502 and decreases in contracting and travel requirements. As part of a continuing effort to keep our need for permanent employees at a minimum level, we undertook an indepth analysis of the Corporation's organizational structure and workflow in early fiscal year 1978. At mid-year and based upon that analysis, the Corporation was reorganized to enhance operating efficiency. We have recently put into effect a comprehensive planning and control program to further strengthen our management of resources.

Second, the plan requests $33,801,000 in spending authority to provide for benefit payments for participants in current and additional terminated pension plans. This reflects our projection that PBGC will be responsible for the guaranteed benefits of some 26,000 participants in terminated trusteed pension plans by the end of fiscal year 1980. Our guarantee of benefits may be fulfilled either by the direct payment of benefits or through the purchase of annuities under which private insurance carriers would pay benefits to such participants. In fiscal year 1979, the Corporation does not plan to purchase annuities as our program to do so is still in the research phase. However, we are preparing for the purchase of annuities toward the end of fiscal year 1980.

Third, the Corporation is not required to guarantee benefits of multiemployer pension plans which terminate prior to July 1, 1979, but may cover such plans at its discretion. Currently, mandatory coverage is to begin on July 1, 1979. For purposes of this budget plan, however, we have assumed that discretionary coverage will continue through fiscal year 1980. Should mandatory coverage become effective prior to the end of fiscal year 1980, PBGC would have to revise its fiscal year 1980 budget plan. On July 1, 1978, we submitted to the Congress a comprehensive evaluation of the insurance program for multiemployer plans, as required by Public Law 95-214. The report investigated several alternatives designed to strengthen the financial condition of multiemployer plans and to encourage their continuation. The Corporation is now concentrating on specific recommendations and plans to present to Congress in the near future major revisions in the present statutory scheme for multiemployer coverage.

That concludes my opening statement, Mr. Chairman. I will be happy to respond to any questions you may have.

FISCAL YEAR 1980 REQUEST

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Our guarantee of benefits may be fulfilled either by the direct payment of benefits or through the purchase of annuities under which private insurance carriers would pay benefits to such participants.

BENEFIT PAYMENTS

Senator EAGLETON. These are defaulted pension plans?

Mr. HART. These are plans that have terminated. Generally, they are insufficient in their funding. They don't have enough in assets to cover at least the benefits at our guaranteed levels.

Senator EAGLETON. OK. Now, give me the fiscal 1979 budget figures for comparison purposes. What was the 1979 figure that would be analogous to the $33 million in 1980?

Mr. HART. Last year it was $26,172,000.

Senator EAGLETON. What was the comparable figure for last year on annuities? This year's figure is $20 million.

Mr. HART. It was $20 million last year, although we intend to purchase none this year.

Senator EAGLETON. If you intend to purchase none, what do you need the $20 million for?

Mr. HART. In fiscal year-1979, while we had anticipated purchasing annuities, we don't intend to. We do intend to in fiscal year-1980, and we are asking for $20 million spending authority once again.

Senator EAGLETON. Now, is the increase you are seeking from $26 to $33 million—is that reflective of the fact that you are encountering more and more underfinanced, or whatever the technical term of art would be, pension plans?

Mr. HART. Yes, sir. We are taking more and more underfunded plans under our trusteeship.

PLANS IN TRUSTEESHIP

Senator EAGLETON. This is an increase of $7 million, so that is about roughly a 30-percent increase in that account. Thus, that is

reflective of the rather sizable increase in the number of troubled pension plans?

Mr. HART. It is the rate as anticipated.

Right now we have 280 plans that are under our trusteeship, and we have another 41 that have been identified for potential trusteeship.

Senator EAGLETON. 321. What were the comparable figures a year ago at this time? How many plans did you have in your trusteeship?

Mr. HART. I would have to check the exact figure, sir. It was about 120 to 140.

[The information follows:]

NUMBER OF TRUSTEESHIPS

On December 31, 1977, PBGC had 171 plans in trusteeship.

Senator EAGLETON. So it's double then?

Mr. HART. Yes.

Senator EAGLETON. Has the administration recommended remedial legislation that will be pending before Senator Williams, chairman of the Human Resources Committee?

Mr. HART. Yes, sir. Public Law 95-214 required that we submit to the Congress an analysis of the multiemployer coverage question. By multiemployer plans, I mean collective bargaining plans to which more than one employer contributes.

But what we are looking at here is in terms of our trusteeships. These figures include only three multiemployer plans. The balance are single employer plans.

Senator EAGLETON. The 280?

Mr. HART. Yes, sir. And the proposals that would be——

Senator EAGLETON. Three are multiemployer plans; all the rest are single?

Mr. HART. Right.

Senator EAGLETON. Now, last August the report accompanying your second appropriations bill asked the Labor Department and the Pension Benefit Guaranty Corporation to submit specific recommendations for legislative changes with respect to the coverage of multiemployers plans, and to be submitted by no later than November 1, 1978.

Has it been submitted? And if not, why not?

Mr. HART. No, sir. The analysis came up on July 1. The specific legislative proposals are due up within the next two weeks; and the actual draft of proposed legislation should come from the Board of Directors through OMB in late April.

ANNUITY PURCHASE

Senator EAGLETON. All right, Mr. Hart. I think I interrupted you. You were about down to the bottom paragraph on page 2.

Mr. HART. In fiscal year 1979, the Corporation does not plan to purchase annuities, as our program to do so is still in the research phase. However, we are preparing for the purchase of annuities toward the end of fiscal year 1980.

Senator EAGLETON. Does the purchase of annuities appear to be a preferred and money-saving route as distinct from the other methodology, the $33 million approach?

Mr. HART. It really does become a question of investment strategy. When we are talking annuity purchases, we are thinking in terms of return on investment. How efficient is it as an application of funds?

Unfortunately, the interest rates on annuity purchases from private carriers, currently tend not to be that attractive. And that is why we backed off during this year to try and take a very careful look, and we have launched a fairly substantial research effort to decide, in, fact, if this is a prudent and efficient way to go.

Senator EAGLETON. If the prime rate stays at 10 or above—it is now 11¼—but if the prime rate stays in double-digit figures, would that cause you to be discouraged about assuming the annuity route?

Mr. HART. I would have to say at this time that it would.

Senator EAGLETON. All right.

MULTIEMPLOYER PROGRAM

Mr. HART. Third, the Corporation is not required to guarantee benefits of multiemployer pension plans which terminate prior to July 1, 1979, but may cover such plans at its discretion.

Currently, mandatory coverage is to begin on July 1, 1979. For purposes of this budget plan however, we have assumed that discretionary coverage will continue through fiscal year 1980. Should mandatory coverage become effective prior to the end of fiscal year 1980, PBGC would have to revise its fiscal year 1980 budget plan.

On July 1, 1978, we submitted to the Congress a comprehensive evaluation of the insurance program for multiemployer plans, as required by Public Law 95-214. The report investigated several alternatives designed to strengthen the financial condition of multiemployer plans and to encourage their continuation.

The Corporation is now concentrating on specific recommendations and plans to present to Congress in the near future major revisions in the present statutory scheme for multiemployer coverage.

That concludes my opening statement, Mr. Chairman. I will be happy to respond to any questions you may have.

Senator EAGLETON. Are multiemployer plans particularly vexing from your point of view, administratively?

Mr. HART. Well, they are in that the current design of ERISA coverage, assuming it became mandatory, has some flaws in it, particularly in the area of withdrawal, where a participating employer could walk away from a multiemployer plan without suffering any liability at withdrawal. If that plan does not terminate in the subsequent 5 years, then that employer is home free.

I think really the main thrust of where we are coming from, besides funding standards being tightened, is imposing some kind of up-front employer liability, where an employer cannot walk away from a plan, where you could get into a Titanic type situation, by everybody trying to leave the ship first.

COST ESTIMATES FOR MULTIEMPLOYER PROGRAM

Senator EAGLETON. Your budget submission assumes that the Pension Benefit Guaranty Corporation will not have to guarantee benefits of multiemployer pension plans beginning July 1, 1979, as required by law.

Why do you make that assumption?

Mr. HART. Well, based on the study that we sent up in July, and some of the work we have been doing with the Board of Directors, OMB, as well as the Congress, it would seem that the preponderance of opinion is that there will be deferral legislation in one form or another, probably within the next few months.

Senator EAGLETON. I see. If that presumption does not come to pass, what is the ball park estimate as to what additional moneys you will need?

Mr. HART. I don't have that at this time. I'm not sure we actually have it in that form. We could work it up for the record.

[The information follows:]

COST OF MANDATORY MULTIEMPLOYER PROGRAM

The Pension Benefit Guaranty Corporation (PBGC) cannot establish firm estimates of the premiums needed to support the currently legislated mandatory multiemployer termination insurance program because the decision whether or not to terminate is essentially voluntary with plan sponsors. However, some idea of the potential magnitude of the cost of the currently legislated program is contained in the PBGC report, "Multiemployer Study Required by Pub. Law 95-214" submitted to Congress in July 1978, as part of that report, PBGC studied the potential cost of the mandatory termination insurance program for multiemployer plans that would be required by the Employee Retirement Income Security Act of 1974. Mandatory coverage of multiemployer plans would begin on July 1, 1979. Until then, PBGC may at its discretion cover terminated multiemployer plans.

The study of the potential cost of the currently legislated mandatory termination insurance program for multiemployer plans, which was based upon a sample of 279 multiemployer plans, provided estimates of the potential incidence of plan termination and of the potential range of costs to the insurance program over the next 10 years. A computer based model was used to identify plans that are potential terminations by projecting plan characteristics indicative of potential plan termination because of financial hardship. These termination characteristics included a high ratio of retired and inactive vested participants to total participants, a low ratio of assets to annual benefit obligations, and a slightly increasing or a decreasing level of assets.

To determine the magnitude of potential exposure to the insurance system, the study identified plans that are potential candidates for termination because of financial hardship. The results of the study should not be viewed as precise projections of the incidence of termination or the anticipated costs to the insurance program because of the uncertainties involved in projecting plan characteristics into the future and because of the difficulty of predicting termination, which depends on a myriad of financial, social, and political factors. The results of the study, however, provided a basis for evaluating the magnitude of costs of the currently legislated mandatory program.

The study showed that approximately 160 multiemployer plans, or about 10 percent of all such plans, have financial and participant characteristics that indicate the possibility of termination because of financial hardship over the next 10 years. These plans cover approximately 1.3 million participants, or aproximately 15 percent of all multiemployer plan participants. Under the currently legislated program, if the plans classified as potential terminations were to terminate, the estimated present value of the gross unfunded liability for guaranteed benefits would be $8.3 billion ($3.8 billion if large, broad-based plans were excluded from the termination estimate on the basis that these plans would be better able to avoid termination than the other plans identified by the termination indicators). The estimated present value of net liability (gross unfunded liability less employer liability payments under the current statutory rules) to the PBGC insurance system for these plans would be $4.8 billion ($2.7 billion if terminations of large, broad-

based plans were excluded). In order to finance these liabilities, an annual premium of $80 per participant would be required ($45 if large, broad-based plans were excluded). Although it is not likely that all of these plans would terminate during the 10-year period, or even thereafter, the magnitude of the potential liabilities indicates that the premium required to maintain the currently legislated program on a self-financing basis would probably not be affordable by multiemployer plans.

The actual potential for termination within the group of plans classified as possible terminations varied significantly. Based upon the relative severity of plan financial condition and projections of industry employment trends over the 10-year period, the plans were classified into four groups with respect to their relative potential to terminate. They ranged from highest (plans projected to become insolvent over the 10-year period) to lowest (plans with the least severe financial condition that cover industries where employment is not projected to decline, according to the Bureau of Labor Statistics). The nine plans with the highest potential to terminate represented less than one percent of all multiemployer plans and contain 1.4 percent of all participants. The estimated present value of net liability to PBGC under the current guarantee and employer liability rules for these plans was about $560 million. The annual premium required to finance this liability would be aproximately $9 per participant. The 51 plans with the second highest potential to terminate (generally, non-broad-based plans in industries projected to decline) represented three percent of all multiemployer plans and participants. The estimated present value of net termination liability for these plans, under the current guarantee and employer liability rules was about $1.3 billion. an annual premium of $22 would be required to finance this level of liability.

Senator EAGLETON. On one defense item, somebody kept referring to it as the back-of-an-envelope cost estimate.

Do you have a back-of-the-envelope cost estimate?

Mr. HART. I think even as far as a ball park figure, it would be difficult. The one thing we do feel is that there are some multiemployer plans where there is a possibility that terminations could come in as soon as mandatory coverage went into effect.

And when we are talking multiemployer plans, we are talking a lot of money.

To give you an example, in the multiemployer plans we are looking at for trusteeship now, the total liability of the Pension Benefit Guaranty Corporation would average about $4 million for each of those plans.

Senator EAGLETON. $4 million each?

Mr. HART. Yes.

Senator EAGLETON. Annually?

Mr. HART. No, total liability. And they are small plans in comparison to many that could potentially terminate.

Senator EAGLETON. What are the rough number of employees affected under those three plans?

Mr. HART. The average would be about 800 employees per plan. As an example, to give you maybe an idea of the scope, the study that we sent up last year talked about under an unchanged program with mandatory coverage in force and just looking at the declining industries where we feel that multiemployer plans might terminate over the next decade, we were talking about a potential for a liability of over $3 billion.

Senator EAGLETON. Now, that is the newspaper article that I've been reading.

Mr. HART. Right.

Senator EAGLETON. Declining industries. Is that textiles, shoes, television manufacturers?

What are some of the declining industries that cause the projections that were made?

Mr. HART. They're among the ones you mentioned. We've got maritime, drycleaning, needle trades.

Senator EAGLETON. Are more people wearing dirty suits, or what?

Mr. HART. Stay-press, that type of thing: polyesters, double knits, and the printing industry is another one that is experiencing a general decline.

Senator EAGLETON. What about failing newspapers?

Mr. HART. In the context that we are talking about, I'm referring to, the printing trades, covered by multiemployers plans.

As examples of the three we have in-house now, one is a millinery plan, needlework; we have a milk drivers' plan, where the home delivery of milk was involved; and then we brought one in recently which was the Chicago electrotypers, in the printing trades.

REORGANIZATION PLAN NO. 4

Senator EAGLETON. Reorganization plan No. 4 of 1978, approved before Congress adjourned, its intent was to streamline the administration of ERISA.

How will the ERISA reorganization plan affect your staffing members?

Mr. HART. I think the Pension Benefit Guaranty Corporation is by and large involved in a relatively self-contained insurance operation.

We are taking in premiums; we are processing terminated plans; paying benefits to participants under those plans, where we become trustee; and also investing our assets in the private sector in some instances.

Mr. Chairman, as far as the larger concept of the reorganization plan, and where personnel savings may come in, you may want to refer that to Mr. Lanoff, because I think that reorganization plan's main thrust is IRS and DOL.

Senator EAGLETON. Do you want to comment on that, Mr. Lanoff?

Mr. LANOFF. Just to say that the reorganization plan grew out of a design that was developed by the Departments of Labor and Treasury. The result of it is that today there is no dual jurisdiction over certain provisions of ERISA as there was before the reorganization plan was adopted.

Basically the Labor Department has authority over the fiduciary provisions, the IRS will have authority over the plan standards.

And as a result of the reorganization, we gained nine slots from IRS to handle the expected increased workload for the Labor Department.

Senator EAGLETON. Gentlemen, that is a vote.

I was tied up in traffic earlier today, and I have a very short speech that I'm going to try to insert in the Record on the Senate floor. So I think we will recess for this vote.

Are the OSHA folks here?

Well, in the interest of time, then, I do have a couple more questions, Mr. Warshaw, of you; when Mr. Schweiker comes back, he can call the OSHA people up so he can ask his OSHA questions.

How many OSHA people do we have?

Why don't we temporarily put the OSHA folks down there?

[A brief recess was taken.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

LABOR-MANAGEMENT COORDINATING COMMITTEES

Question: Explain how you avoid duplication and overlap with the Federal Mediation and Conciliation Service with respect to establishing joint Labor-Management Coordinating Committees?

Answer: There have been two labor-management industry-wide committees established by the Department of Labor, one for the steel industry and one for the airline industry. In addition there are four regional construction coordinating committees. None of these committees duplicate or overlap Federal Mediation and Concilation Service (FMCS) functions.

The function assigned to FMCS is to encourage and support the establishment and operation of joint (two-party) labor-management activities conducted by plant, area and industrywide committees designed to improve labor-management relationships, job security and organizational effectiveness. These committees discuss and involve workers in such matters as problems in the workplace--alcoholism, drug abuse, work hazards, continuing education, culture and the arts, recreation, group activity, participation in plant decision making and working life values.

The committees established by the Department of Labor are tripartite with a continuing Government presence and participation. They address very different types of problems. The committee in the steel industry was formed at the request of the major steel companies and the United Steelworkers union and is jointly chaired by the Secretary of Commerce and the Secretary of Labor. The problems which led labor and management to request formation of the committee are those which derive primarily from the significantly larger share of the market that has been obtained by foreign exports of steel over the last several years. That committee has established several subgroups to study possible solutions to those problems, such as the trigger price mechanism, trade, and technology and research, none of which are subject to collective bargaining. These problems have, however, affected the prosperity of the industry and steel employment opportunities.

The airline tripartite committee similarily was formed at the request of a number of airline presidents and presidents of unions in the industry to deal with problems where Government action has an impact, but which are not directly involved with negotiations. The meetings are chaired by the Secretary of Labor and attended by the principal executive officers of the major airlines and unions. The kinds of problems the parties have expressed an interest in discussing include fuel costs and availability, capital implications of requirements to retrofit engines on older aircraft, and the impact of the Airline Deregulation Act on employment and the collective bargaining relationship of the parties. In any event, labor relations in the airline industry are governed by the Railway Labor Act which is administered by the National Mediation Board. FMCS is specifically excluded by statute from any involvement with labor relations in the airline industry. It may be noted, however, that the Labor Department has kept the National Mediation Board fully informed of its meetings with the airline committee and has received complete cooperation from that agency.

The primary objective of the Department of Labor's Construction Coordinating Committees is to increase productivity on a regional level. These committees are tripartite in nature with representatives from Federal, State, and local government agencies and from management and labor.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Question: Has the Labor-Management Services Administration taken action to determine the level of compliance by unions with the reporting and disclosure requirements of the Labor-Management Reporting and Disclosure Act of 1959?

Answer: In order to efficiently achieve the goals and objectives set forth by the Law and the Agency, we have designed a computer-based system for processing these reports. Under this system all financial reports received are subjected to computer edits to determine the financial accuracy of the reports submitted. Based on our experience and statistical data provided by this system there are approximately 11,000 reports that have deficiencies which require desk audits. Of this number we estimate that approximately 3,000 reports have serious financial deficiencies which cannot be resolved by correspondence and/or telephone contact and would require referral to our Field Offices for action. At the present time, however, we are only conducting desk audits on approximately 2,400 reports. The remainder go unaudited because of staff limitations.

Question: What recent efforts have been taken to improve the enforcement and compliance of labor organizations (unions) with the criminal provisions of the Labor-Management Reporting and Disclosure Act of 1959?

Answer: In FY 1979 and FY 1980 the investigative emphasis for the Labor-Management Standards Enforcement (LMSE) activity after elections is on the investigation and resolution of Basic or Union Member Complaint Investigations. Most of these cases arise from complaints made by union members alleging violations of the Act by their unions. Although there are several types of alleged violations encompassed by this program, two of the most prominent concern filing false financial reports and embezzling union funds. The latter violation arises from Section 501(c) of the Act and is the most prevalent and serious criminal violation covered by the LMRDA. The backlog in the union member complaint investigations has grown considerably over the past several years due to the diversion of resources to the elections program. In FY 1979 and 1980, the added emphasis on reducing the backlog in the union member complaint program should result in the completion of an estimated 603 cases in FY 1979 and another 906 cases in FY 1980, thereby reducing the backlog of these cases to less than six months by October 1, 1980.

Question: Have you taken action to increase and improve the quality of on-site field audits at labor unions to assure compliance with the Labor-Management Reporting and Disclosure Act of 1959?

Answer: Although the number of completed field audits presently planned for FY 1979 and 1980 is not increased, the LMSE National

Office plans to begin a training program by May 1, 1979 which should improve the quality of the audits produced. Under this program, teams of experienced auditors from the National Office staff will travel in turn to each of our regions and work field audits with inexperienced field compliance officers to provide the latter with on-the-job experience regarding this aspect of their duties.

Question: What has been done to improve the training of its area offices compliance officers responsible for enforcing the Labor-Management Reporting and Disclosure Act of 1959?

Answer: The previously mentioned on-the-job field audit training program should certainly increase the auditing ability of the field personnel involved. In addition, a compliance officer professional training program is nearing completion and should be in operation by June 1, 1979. This course will provide for the development of compliance officers grades GS-5 through GS-13. It will provide for retraining, refinement, upgrading, and specifically, will enable the compliance officer to apply technical knowledge and skill required to perform tasks associated with specific job assignments, as well as provide an approach for self-study. Furthermore, during FY 1979 and FY 1980 our regions periodically will conduct skills training of various types for selected compliance officers within each region to train inexperienced personnel as well as retrain or enhance existing skills in experienced compliance officers.

Question: Has a review been made to determine the additional resources and staff needed to effectively enforce the criminal, as well as civil provisions, of the Labor-Management Reporting and Disclosure Act of 1959, and provided this information for the Congress' consideration?

Answer: A preliminary review made by the LMSA Regional Administrators in May, 1978 concerning the FY 1980 planning cycle indicates a need for at least 61 additional compliance officers and a corresponding increase in clerical support personnel to adequately enforce the provisions of the Labor-Management Reporting and Disclosure Act. Congress was not requested to provide this additional staffing and funding because once the backlog of union member complaints has been reduced, a portion of those resources can be diverted to enforcement of other areas of LMRDA.

LMSE systematically checks its files of reporting labor organizations against many International Labor Organizations' files; this results in the mutual updating of the universe of labor organizations required to file reports under the LMRDA. Among cooperating internationals are Auto Workers, Postal Workers, Ladies Garment Workers, Letter Carriers, and Steelworkers.

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Question: What action has been taken to determine the level of compliance by pension plan administrators with the reporting and disclosure requirements of the Employee Retirement Income Security Act?

Answer: The Department has implemented programs to ascertain whether plan administrators have filed reports and whether such reports, when filed, are in compliance with ERISA requirements. For filings that cover 1975 and 1976 plan years the Department initiated a program to identify delinquent filers, to obtain the required reports, and to correct deficient reports. This involves a massive mail follow-up for delinquent or deficient reports, and phone contacts are made when necessary. Priority has been given to obtaining reports from the largest plans, and this program is continuing for other plans. For 1977 plan year filings, under the single filing agreement between the Department and the Internal Revenue Service, they will be assuming responsibility for insuring that reports are received and that the reports contain the necessary information.

The Department is also reviewing the content of reports to determine compliance, not only with the reporting requirements, but also with the ERISA fiduciary standards. A sample of Summary Plan Descriptions is being reviewed for completeness and clarity to determine the extent of compliance with ERISA disclosure standards. Annual Financial Reports undergo a computer audit by the Department, which checks for significant indicators of reporting and fiduciary violations. Reports which appear to indicate potential violations receive a further review by a staff accountant, and cases are referred to the field for investigation when warranted.

Question: What recent efforts have been taken to improve the enforcement and compliance by pension plan administrators with the criminal, as well as civil, provisions of the Act?

Answer: The Secretary of Labor has authority to enforce the civil remedies contained in the Act and has very limited authority to pursue criminal remedies. A recent memorandum of understanding developed by the Department of Labor (DOL) and the Department of Justice (DOJ) has established effective procedures for referring evidence of possible criminal violations disclosed by a DOL investigation, to DOJ and for referring DOJ information related to civil violations to DOL. This memorandum of understanding will improve enforcement efforts of both Departments by preventing duplicative investigations and facilitating information sharing.

Question: What has been done to increase and improve the number and quality of on-site field audits at pension plan administrators to assure compliance with the Act?

Answer: A full scale audit of plan records is not necessarily the most effective and efficient investigative tool for determining compliance. Our Pension and Welfare Benefits Program (PWBP) is currently concentrating its investigative resources on what is termed a fiduciary investigation. These investigations are, in fact,

limited on-site audits which focus on a particular transaction or group of transactions where fiduciary violations are most likely. This type of investigation requires more initial planning than a full audit, but is a more effective use of resources.

In addtion to utilizing fiduciary investigations, PWBP has initiated several task forces where geographical pockets of corruption have existed. These task forces consist of groups of investigators who work full time on these highly significant cases. Again, these investigations are on-site audits, but are sufficiently focused so they are counted for statistical purposes as fiduciary investigations rather than on-site audits.

Question: Have you made a review to determine the additional resources and staff needed to effectively enforce the criminal as well as civil provisions of the Employee Retirement Income Security Act and provided this information for the Congress' consideration?

Answer: The Secretary of Labor has very limited responsibilities for investigation of ERISA's criminal provisions.

We have reviewed our resource requirements, and while we feel we could have a more effective civil enforcement program with additional resources, we feel we can adequately enforce all provisions of the law with the resources contained in the budget request currently before Congress for approval. The FY 1980 budget request does transfer 18 positions to the field for ERISA enforcement.

Occupational Safety and Health Administration

STATEMENT OF EULA BINGHAM, ASSISTANT SECRETARY

ACCOMPANIED BY:

DONALD E. MACKENZIE, DIRECTOR, OFFICE OF FIELD COORDINATION
BENJAMIN W. MINTZ, ASSOCIATE SOLICITOR, OFFICE OF THE SOLICITOR
SUE NELSON, DIRECTOR, OFFICE OF POLICY ANALYSIS, INTEGRATION, AND EVALUATION
BASIL J. WHITING, JR., DEPUTY ASSISTANT SECRETARY
DAVID C. ZEIGLER, DIRECTOR, DIRECTORATE OF ADMINISTRATIVE PROGRAMS
WILLIAM R. REISE, COMPTROLLER
WILLIAM T. FURMAN, ACTING DIRECTOR, OFFICE OF BUDGET

SUBCOMMITTEE PROCEDURE

Senator Schweiker [presiding]. Chairman Eagleton has asked me to reconvene and proceed with OSHA at this moment.

I guess we can put the others in a standby position.

So, Dr. Bingham, we will let you proceed.

Dr. Bingham. Would you like for me to proceed with the statement or a summary of it? Would that be the best way to do it?

Senator Schweiker. Yes. Go ahead.

[The statement follows:]

STATEMENT BY DR. EULA BINGHAM
ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH
SENATE APPROPRIATIONS SUBCOMMITTEE
FISCAL YEAR 1980 BUDGET REQUEST

Occupational Safety and Health Administration
Salaries and Expenses

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to present the Occupational Safety and Health Administration's budget request for fiscal year 1980.

We are requesting $179,520,000, which is a net increase of $6,486,000 over the 1979 estimate.

This request includes a $3,000,000 program increase for training grants to trade associations, labor unions, educational institutions, and other non-profit organizations, to assist such organizations develop their institutional capabilities for providing safety and health training for workers, employers, and others with related concerns. If this increase is approved, a total of $11,000,000 in grant funds will be available in 1980 for these developmental "New Directions" training efforts.

The request also provides for full-year funding of the 286 new positions added by Congress in 1979 for enforcement, compliance officer training, technical support of the compliance staff, and for simplifying standards. "Built-in" or mandatory increases total $4,746,000.

Because the Civil Service Reform Act of 1978 mandates reductions in the civilian employment of the Executive Branch, the request contains decreases of $790,000 and 142 positions. Sixty-three of these positions are currently not filled; the remainder are positions which will be carried for only a part year in 1979 because of the Reform Act's employment constraints.

A decrease of $470,000 in matching funds for State statistical grants reflects the reduced size of the annual survey of job-related injuries and illnesses, from 420,000 establishments in the 1977 survey, and 332,000 establishments in 1978, to 280,000 establishments currently. This decrease is possible because of greater efficiencies in the statistical sampling.

The 1980 request also proposes the elimination of language in the appropriations bill which:

(1) Prohibits the use of Federal funds to assess civil penalties for first instance violations--other than serious, willful or repeated violations--unless a total of 10 or more violations of whatever nature are cited during the inspection;

(2) Prohibits the use of Federal funds to issue or enforce any regulation which is applicable to farming operations which employ 10 or fewer employees and do not maintain a temporary labor camp; and

(3) Prohibits the use of Federal funds to issue or enforce regulations affecting any work activity by reason of recreational hunting, shooting, or fishing.

Even before the Congress enacted the appropriations language restricting assessments of civil penalties, significant changes had been implemented administratively which greatly reduced the penalties assessed for other-than-serious violations. Furthermore, we believe that restrictions on penalties are properly a subject for review by the oversight committees of Congress.

We are opposed to any form of restriction which treats some employers and their employees differently from others, based solely on the number of persons employed. Some industries which are typically composed of small firms are among the most hazardous, and we accordingly oppose any exemption. Restrictions based on employment-size prevent the agency from fulfilling its statutory obligation to provide employees safe and healthful working conditions, and from taking action to correct those workplace conditions which involve serious hazards--even if such hazards come to our attention through employees° complaints.

The restriction relating to recreational hunting, shooting, and fishing is unnecessary in our opinion, based on the absence of--or any plans for--an agency policy which might restrict these recreational activities.

However, we recognize the importance of consultation in fostering voluntary compliance with the Occupational Safety and Health Act. To this end, we have increased Federal funding of State consultation programs to 90 percent. The Dole amendment to the 1979 appropriations bill exempts employers of 10 or fewer employees from civil penalties for other than serious, willful, or repeated violations if they have followed or are following an approved consultant's recommendations in dealing with a particular hazard. Since this amendment provides additional incentive for small business employers to seek consultative advice, we view it as consistent with our own goals for providing consultation at no expense to small business employers without diminishing the protection of workers.

The budget justification this year contains a new budget activity called "Technical Support." This separate activity statement underscores the need for assuring compliance officers, and others administering the Act, a high caliber of support in dealing with the technical aspects of occupational hazards. The Committee recognized this last year when it approved a request for $2,500,000 in contract funds for technical support, and added another 45 positions and $878,000 for in-house support. All of the positions identified with the Technical Support activity, including new positions added by Congress, and other technical support positions

formerly under the Standards and Enforcement activities, are fully funded by this request.

The Technical Support budget includes resource requirements for the laboratory analysis of industrial hygiene samples and for equipment calibration, for the agency's technical data center, for engineering and technical assistance, and for studies of the technical feasibility and the economic and environmental effects of proposed standards.

Although estimates on the number of safety and health compliance inspections this year and next are subject to many variables, we expect the total to increase from 57,242 in fiscal year 1978, to approximately 63,000 in 1979 and 69,000 in fiscal year 1980. Most of the increase will be inspections for health hazards as additional industrial hygienists hired in 1978 and 1979 complete their on-the-job training and begin making independent inspections. In addition to investigations of accidents and complaints, "programmed" or scheduled inspections are being targeted in high-risk industries such as heavy construction, manufacturing, petrochemicals, grain elevators, and foundries.

Matching grant funds are requested to continue assisting State occupational safety and health programs in the 25 States and jurisdictions with operational programs, and the 50 States and jurisdictions with statistical programs. States with approved plans conducted 122,701 inspections in fiscal year 1978 and expect to complete 150,000 inspections this year. Funds are also requested to continue reimbursing States 90 percent of their costs for providing on-site consultation services which focus primarily on small, but high hazard business employers. On-site consultation is available from State agencies in 32 States and jurisdictions under reimbursement agreements, and in 15 plan States under matching grants. These services are also provided directly through contracts with private consulting organizations in the remaining six states.

This budget request reflects OSHA's continuing commitment to focus on serious threats to workers' health and safety, and to enlist the support and cooperation of employers and workers in eliminating or controlling the major causes of injuries and occupational diseases in this Nation.

With the additional positions approved last year, we are expanding our efforts to develop new health standards and to revise and simplify existing safety standards. High priority is being assigned to standards for health hazards that cause cancer, leukemia, nerve damage, lung disease, and other irreversible diseases. In October, 928 safety standards were revoked because they were not relevant to workers' safety and health. Text changes are being proposed to simplify standards dealing with fire protection, and walking and working surfaces. As a part of the fire protection proposal, 743 pages of material included by reference in OSHA's regulations will be discarded in favor of an approach oriented to performance standards.

We are also working closely with other agencies--principally the Environmental Protection Agency, Federal Drug Administration and the Consumer Products Safety Commission--through what is called the Interagency Regulatory Liaison Group, to insure that our responses to new health and safety problems are coordinated and to avoid duplication and overlap.

With the advice and guidance of this Committee, and the House Committee, we have been able to move ahead in achieving some of the objectives that were envisioned when Congress established this agency. We are improving the professionalism of the staff and increasing their technical proficiency, especially their capabilities for dealing with health hazards. We are focusing our inspection resources on high-hazard industries. We are making it easier for employers who wish to comply voluntarily to do so, by providing through on-site consultation the knowledge and advice that they need. Further, our "New Directions" program of training grants will enable employers and employees to work together more effectively in maintaining a safe and healthful workplace. We are grateful for your advice and assistance in all of these areas.

Thank you, Mr. Chairman.

Dr. BINGHAM. Thank you.

We appreciate this opportunity to present our request to you for 1980, and I would like to indicate that we are requesting a total of $179,520,000, which is a net increase of $6,486,000 over the 1979 estimate.

Really to summarize, this means that we have requested an additional $3 million for training grants that are given to trade associations, labor unions, educational institutions, and other non-profit organizations, to assist these organizations in developing safety and health training for workers and employers.

If this increase were to be approved, we would have a total of $11 million in grant funds to go forward in 1980 in these training activities.

We are asking for a $4,746,000 increase that I would put in the category of built-in or mandatory increases.

To offset this, there will be a reduction of $790,000 that will result from a cutback in positions because of the Civil Service Reform Act.

There is also a decrease of $470,000 in matching funds for statistical grants to States which actually reflects a reduced size in the annual survey that we do.

This decrease is possible because we think we have a more efficient statistical sampling technique developed.

In addition, there are some other things about the budget that I would like to point out to you.

We are requesting the elimination from the appropriation bill of several riders.

The first one is the one that prohibits the use of Federal funds to assess penalties for first-instance violations, other than serious, willful, or repeated, unless a total of 10 or more violations of whatever nature are cited during the inspection.

No. 2, the second rider that prohibits the use of Federal funds to issue or enforce any regulation which is applicable to farming operations which employ 10 or fewer employees and do not maintain a temporary labor camp; and rider three prohibits the use of Federal funds to issue or enforce regulations affecting any work activity by reason of recreational hunting, shooting or fishing.

The other point I would like to make is that we are asking for a specific budget activity called technical support.

I think putting this in as a specific activity underscores the need to assure that we do have high caliber technical support in dealing with occupational hazards.

The committee took recognition of this last year when it approved $2,500,000 in contract funds for technical support, and added new positions and funding for these new positions.

So, we are asking that this activity be an item separately identified in our budget.

The other point I would like to make about the budget in my prepared statement is that we are attempting to become more efficient, more responsive to our constituencies.

That is the reason for the request for the training funds. In addition to that, we are attempting to work more closely with the Environmental Protection Agency, the Food and Drug Administration, the Consumer Products Safety Commission, in a fairly organized manner, so that we can share resources and expertise whenever it is possible.

I would be happy to answer questions now.

COST OF REGULATIONS

Senator SCHWEIKER. All right, Dr. Bingham.

Dr. Bingham, in the President's economic report to Congress, in January of this year, the economic reports makes this statement, and I quote, "The output measures—" I might say this relates to productivity—

> The output measures generally used to calculate productivity do not include environmental improvement and other benefits of regulation. Nevertheless, the magnitude of the productivity effect does highlight two facts. Regulation is very costly, and benefits should be closely compared with costs in the design of regulatory legislation, and specific regulations.

As far as OSHA is concerned, what is your response to the President's report in that regard, ma'am?

Dr. BINGHAM. Well, there is no question in my mind that regulations are costly.

I think it is fair to say that one of the things that we are all concerned about is inflation, and if we look at the data on inflation, we find that one of the biggest contributors to inflation is, of course, food costs and medical care costs.

I would say that almost nowhere else in the regulation area can we point to the effects on medical care that we see as a result of regulation as in the occupational safety and health area.

Let me give you some specific examples. It is estimated that there are approximately 2,500 to 3,000 amputations of digits per month in this country. Every one of those amputations, amputees

have to be seen by a physician in a hospital, medical tests are run, there is compensation paid out.

There are the costs associated with the care of working men and women who develop lung cancer as a result of exposures on the job. One of the best documented examples is the development of lung cancer in workers as a result of exposure to asbestos. Another example is the coke ovenworkers, who develop lung cancer as a result of their job.

I can go on and on, and I can tell you about some tumors that we are finding among some workers in Texas.

My point is that the benefits of regulations in the occupational safety and health area are very great. The preamble of each standard presents the rationale and the benefits for the standard. It presents actually the benefits of this standard, describes, for example, the fact that if you lower the level of asbestos from so many fibers to so many other fibers, that you will expect to have fewer cases of mesothelioma asbestos lung cancer.

So, I think perhaps that is one of the most important defenses.

COST-BENEFIT ANALYSIS

Senator SCHWEIKER. I might say, Dr. Bingham, that I agree with all that, and I might say that the Senate subway sealed in its asbestos fiber after years of operation.

My question that we don't seem to be focusing on is what attempt does OSHA make to weigh the cost against the benefits?

I agree health costs are up, and that food costs are up. As the economic panel reports, both the large impact of Government regulation is measured by cost and benefits, and the way in which cost adds to inflation highlights the responsibility of all branches of the Government to make sure that regulations are both necessary and efficiently designed.

Now, health and food are areas that I'm concerned with on other committees. Right now it's OSHA; what are you doing with regard to costs and benefits?

Dr. BINGHAM. All right.

First of all, I have described some of those benefits to you. We are only issuing standards currently that deal with what I would call major health and safety hazards.

Examples are the issuance of standards for coke oven emissions and for lead. We are not issuing what I would call frivolous standards in this area. We do have a priority system established.

Vinyl chloride is another standard dealing with serious problems. So that the standards we issue are not frivolous.

In addition to that, we are attempting to cut back on standards that we believe are frivolous, and we have done that.

And we are in our new revisions of standards looking toward what I would call performance-type standards, so that a company can achieve a desired health or safety effect in the most cost-effective manner for that particular industry.

We do a cost analysis for every standard that is issued. We attempt to come up with just how much the cost of a piece of ventilating equipment will be, and sometimes our data are not very

good, because we must go to the industry and ask them for these data. There certainly is no requirement that industry provide them.

But we are making an honest attempt to determine how much the compliance will actually be.

Senator SCHWEIKER. Well, we had a long fight about cotton dust standards right here in this committee room.

So we can get into specific areas, as to cost benefit. But one of the areas that I would like to get into specifically is the regulatory analysis review group, which reviewed, I believe, major proposals.

Two of these were OSHA proposals. My question is, what is your reaction and response to the regulatory analysis review group, and what have they done or not done, constructive or not constructive, in terms of your work?

Dr. BINGHAM. Well, they have made us look at standards from the viewpoint of an economist, which I think was a healthy needling.

They have commented on some of our standards recently, and said that we have looked at alternatives, and come up with a cost-effective way of actually issuing a standard.

So, I think from that point of view, they have been very helpful.

I would like to point out to you that it is sometimes very difficult to come up with benefit analyses.

The benefit analyses first of all are not measured the same way that the costs are measured, or the way they come out.

And if you try to measure benefits, then you must always have dead bodies, you must always have deceased workers.

If we have scientific evidence from toxicology that a substance poses a hazard, and our experience tells us that if we have a certain kind of chemical that is an alkylating agent, and it is tested in animals and produces lung cancer, or kidney damage, this act, and the whole concept of preventive medicine and the public health service, is to make some attempt to prevent these disasters before we have them.

GRANTS FOR EMPLOYEE EDUCATION

Senator SCHWEIKER. What has happened with the funds allocated to OSHA in terms of grants for employee education and training? What grants have been made, how many grants have been made, and so forth?

Dr. BINGHAM. Up to this time—we have the figures on this. We have a complete breakdown. But there have been 86 grants awarded.

We have planning grants, 42 actually, that are of the magnitude of $50,000 each.

Senator SCHWEIKER. Could you give me a sprinkling of the kinds of grantees you have?

Dr. BINGHAM. Yes. I can do that.

Well, we have given a grant to the International Chemical Workers Union.

We have given a grant to the International Longshore and Warehouseman's Union.

We have given a grant to the United Auto Workers.

We have given a grant to the Ohio Manufacturers' Association.

We have given a grant to the National Asphalt Pavement Association.

We have given grants to the Refractories Institute, to study noise, emissions from coal tar pitch volatiles, and how you protect workers from those.

We have given grants to colleges and universities.

The University of Alabama Center for Labor Education, the University of Minnesota Industrial Relations Center, the Central Washington University Safety Center. I'll provide a complete list for the record.

[The information follows:]

CATEGORY I

	Applicant	Amount Approved
	FY 1978	
1.	Amalgamated Clothing and Textile Workers Union, AFL-CIO New York, New York	$106,000
2.	Federated Fire Fighters of California, AFL-CIO Sacramento, California	50,000
3.	Graphic Arts International Union, AFL-CIO Washington, D.C.	93,000
4.	International Association of Heat and Frost Insulators and Asbestos Workers, AFL-CIO Washington, D.C.	50,000
5.	International Association of Machinists and Aerospace Workers, AFL-CIO Washington, D.C.	170,000
6.	International Brotherhood of Painters and Allied Trades, AFL-CIO Washington, D.C.	50,000
7.	International Chemical Workers Union, AFL-CIO Akron, Ohio	179,000
8.	International Molders and Allied Workers Union, AFL-CIO Cincinnati, Ohio	161,000
9.	International Union, United Automobile Aerospace and Agricultural Implement Workers of America (UAW) Detroit, Michigan	127,000
10.	Oil, Chemical and Atomic Workers International Union, AFL-CIO Denver, Colorado	251,000
11.	Operative Plasterers' and Cement Masons' International Association, AFL-CIO Washington, D.C.	50,000
12.	United Rubber, Cork, Linoleum and Plastic Workers of Americia, AFL-CIO Akron, Ohio	120,000
13.	United Steelworkers of America, AFL-CIO Pittsburgh, Pennsylvania	100,000

Applicant	Amount Approved
FY 1979	
1. Building and Construction Trades Department, AFL-CIO Washington, D.C.	$254,000
2. Building Trades Council of Wichita, AFL-CIO Wichita, Kansas	42,000
3. Central Labor Rehabilitation Council of New York, Inc. New York, New York	50,000
4. Communications Workers of America, AFL-CIO Washington, D.C.	50,000
5. District Council 37 (DC 37) American Federation of State, County and Municipal Employees, AFL-CIO New York, New York	50,000
6. Food and Beverage Trades Department, AFL-CIO Washington, D.C.	95,000
7. General Education Training and Safety Laborer's Union, Local 158, AFL-CIO Harrisburg, Pennsylvania	43,000
8. Greater Kansas City Building and Construction Trades Council, AFL-CIO Kansas City, Missouri	50,000
9. The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers AFL-CIO Local 802 Chester, Pennsylvania	40,000
10. International Longshoremen's and Warehousemen's Union San Francisco, California	50,000
11. Local 201, IUE AFL-CIO Lynn, Massachusetts	50,000
12. Metropolitan Boston Building and Construction Trades Council, AFL-CIO Boston, Massachusetts	50,000
13. United Slate, Tile and Composition Roofers, Damp and Waterproof Workers' Association, AFL-CIO Washington, D.C.	50,000

CATEGORY II

	Applicant	Amount Approved
	FY 1978	
1.	The Associated General Contractors of Mid-Florida, Inc. Tampa, Florida	$ 50,000
2.	Central Illinois Industrial Association Peoria, Illinois	30,000
3.	The Mechanical Contractors Association of America, Inc. Washington, D.C.	17,000
4.	National Asphalt Pavement Association Riverdale, Maryland	40,000
5.	National Association of Demolition Contractors Hillside, Illinois	49,000
6.	The Ohio Manufacturers' Association Columbus, Ohio	49,000
7.	Pennsylvania Foundrymen's Association Plymouth Meeting, Pennsylvania	50,000
	FY 1979	
1.	Aleutian/Pribilof Islands Association, Inc. Anchorage, Alaska	50,000
2.	Building Construction Employers' Association of Chicago, Inc. and Chicago and Cook County Building and Construction Trades Council Chicago, Illinois	193,000
3.	Institute of Scrap Iron and Steel, Inc. Washington, D.C.	90,000
4.	National Association of Sewer Services Companies Washington, D.C.	50,000
5.	New Jersey State Safety Council Newark, New Jersey	78,000

Applicant	Amount Approved
FY 1979	
6. Oregon State Home Builders Association Salem, Oregon	$ 50,000
7. The Refractories Institute Pittsburg, Pennsylvania	50,000
8. Southern Furniture Manufacturers Association High Point, North Carolina	49,000

CATEGORY III

Applicant	Amount Approved
FY 1978	
1. Institute for Labor Studies West Virginia University Morgantown, West Virginia	$ 95,000
2. Kansas State University Manhattan, Kansas	45,000
3. Middlesex County College Edison, New Jersey	125,000
4. Rutgers University New Brunswick, New Jersey	50,000
5. School for Workers-University of Wisconsin Extension Madison, Wisconsin	252,000
6. Stanford University Stanford, California	50,000
7. University of Alabama in Birmingham Birmingham, Alabama	50,000
8. University of California Berkeley, California	250,000
9. University of California, Los Angeles Los Angeles, California	75,000
10. University of Cincinnati Cincinnati, Ohio	85,000
11. University of Connecticut Farmington, Connecticut	85,000
12. University of Houston Houston, Texas	120,000

	Applicant	Amount Approved
	FY 1979	
1.	Agricultural Extension Service University of Minnesota St. Paul, Minnesota	$ 50,000
2.	Bureau of Labor Education University of Maine Orono, Maine	50,000
3.	Central Washington University Ellensburg, Washington	110,000
4.	College of Food and Natural Resources University of Massachusetts Amherst, Massachusetts	50,000
5.	Colorado State University Fort Collins, Colorado	50,000
6.	Cornell University New York, New York	110,000
7.	Georgia State University Atlanta, Georgia	40,000
8.	Indiana University Bloomington, Indiana	50,000
9.	Labor Education Service University of Minnesota Minneapolis, Minnesota	50,000
10.	Michigan State University East Lansing, Michigan	50,000
11.	The Ohio State University Research Foundation Columbus, Ohio	175,000
12.	University of Arizona Tucson, Arizona	120,000
13.	University of Hawaii Honolulu, Hawaii	50,000
14.	University of Illinois Champaign, Illinois	50,000
15.	University of Missouri Columbia, Missouri	50,000

Applicant	Amount Approved
FY 1979	
16. The University of North Carolina at Chapel Hill Chapel Hill, North Carolina	$100,000
17. University of Oregon Eugene, Oregon	50,000
18. University of Tennessee Memphis, Tennessee	50,000
19. Utah Technical College of Provo Provo, Utah	65,000
20. Waukesha County Technical Institute Pewaukee, Wisconsin	50,000

CATEGORY IV

Applicant	Amount Approved
FY 1978	
1. Chicago Area Commitee on Occupational Safety and Health Chicago, Illinois	$ 26,000
2. National Association of Farmworker Organizations Washington, D.C.	25,000
3. Pacific Northwest Labor College, Inc. Portland, Oregon	62,000
4. Pacific Studies Center Mountain View, California	47,000
5. Philadelphia Area Project on Occupational Safety and Health, Inc. Philadelphia, Pennsylvania	29,000
6. Public Media Center San Francisco, California	50,000
7. Urban Environmental Conference, Inc. Washington, D.C.	49,000
8. Women's Occupational Health Resource Center New York, New York	50,000

Applicant	Amount Approved
FY 1979	
1. Carolina Brown Lung Association, Inc. Greenville, South Carolina	$ 41,000
2. National American Indian Safety Council, Inc. Albuquerque, New Mexico	50,000
3. Oregon Lung Association, Inc. Portland, Oregon	9,000
4. SER/Jobs for Progress, Inc. Seattle, Washington	50,000
5. Western Institute for Occupational/ Environmental Sciences, Inc. Berkeley, California	50,000

Senator SCHWEIKER. I think that is a fair idea of what you have done.

Would any of these grants get into an area of labor-management relations or collective bargaining?

In other words, do any of them get into that area, as to purpose or content?

Dr. BINGHAM. Not in collective bargaining, no.

I can tell you that there are some management groups that are working in their educational program with union groups. There are some unions that have grants that are working with management groups, so that they are not at loggerheads with each other in educating either employers or employees.

In the area of labor-management committees, I would like to say that we are investigating the possibility of labor management committees in different places throughout this country to see what kind of impact this will have. It would be an investigative type of program, that we shall actually run ourselves. We want to look at the impact of labor-management committees upon occupational safety and health in specific plants in this country, both organized plants and unorganized plants, because committees can focus on safety and health, whether or not a plant is organized.

This is something that we are doing apart and separate.

But under the educational grants, one of the things that we put in the announcement of these grants was that we encourage the unions to work with management in trade organizations to make sure that the workers and employers are in agreement.

COST EFFECTIVENESS

Senator SCHWEIKER. Dr. Bingham, in asking some of these questions on cost effectiveness, I want to preface all of them by commending you as one of the few recent administrators who I think has tried to zero in on these various problems that I am exploring with you now.

But I still want to pursue it, because I think it is an OSHA responsibility.

You are probably familiar with the study of Richard Zeckhauser and Albert Nichols at the John Kennedy School at Harvard, which was published by the Senate Committee on Government Affairs.

This is an overview which raises a number of questions about the cost effectiveness of OSHA, the very thing that I was discussing earlier.

One of the points that Zeckhauser or Nichols make is, and I quote from their report now, from the Senate Governmental Affairs Committee, "Procedures have been formulated with minimal concern for economic resources," and "There are substantial inconsistencies across areas in the cost of achieving OSH improvements."

They suggest a case in which compliance with two different standards would have the same projected benefit in terms of the number of expected accidents reduced, but where compliance with one standard is 10 times as costly as compliance with another standard. They suggest there would be an overall benefit with reduced enforcement or abandonment of the more costly one.

Now, they make a pretty critical general point about consistency and about cost effectiveness necessary where the benefits end up the same.

Are you familiar with that analysis, and what is your response to their suggestion in this area about putting investigators and inspectors in the areas where your cost-benefit ratio is higher, and making a criteria judgment about where inspectors ought to be going on that basis?

Dr. BINGHAM. First of all, I would like to answer some of these items you have raised in writing in more detail, but let me begin by saying that this report was essentially put together based upon interviews and data, which, generally, do predate the current leadership at OSHA.

Senator SCHWEIKER. That is why I prefaced my question in the way that I did.

Dr. BINGHAM. OK. However, I did get a letter from Professor Zeckhauser and Nichols, and they say they have been disturbed by press coverage of the recently published report on OSHA. They said that most of the accounts have either been misleading or outright wrong. Although they disagree with a number of policies, they do not call for the abolition of the agency.

Now, let me get to what you are calling cost-benefit analysis in terms of where inspectors are targeted.

That was practically the first thing I attempted to do when I came into the agency, was insist that we focus in on the high hazard segments of the industry, that is, high hazard safety and health areas.

We have required that a system be set up so that compliance officers work out a plan for the high hazard industries in their particular regions of the United States.

For example, logging is a particularly high hazard industry in the Northwest. In the Northeast—well, in every place, it is asbestos. In the Northeast, it will be coke ovens, it will be perhaps lead, and other types of industries.

Certainly in region VI, which includes the Gulf Coast area, it is going to be chemicals, the petroleum chemical industry.

The construction industry is a particularly high hazard safety situation. What we have done is program inspections in the high hazard areas to get the most worker protection for our inspectors' time that we have available.

MEASURING BENEFITS

Senator SCHWEIKER. To be specific, would you, given two equal benefits, program your inspectors at the least costly way to proceed, if the benefits are the same?

Dr. BINGHAM. I don't think that we can make such a determination—but yes, we would if we could.

Senator SCHWEIKER. I would hope so.

Dr. BINGHAM. I don't believe we can measure benefits that precisely. But, of course, if somebody laid it out to me, and had the evidence, of course, we would.

Senator SCHWEIKER. You certainly measured benefits on the 1,000 regulations you just incinerated. You had to make some measurement of benefits right there.

It would seem to me with the Mickey Mouse ones, that is one area to begin with. The more sophisticated ones may be more difficult. I think it is just as important to measure benefits for the higher priced ones as for the Mickey Mouse ones.

Dr. BINGHAM. Yes. We try to, for example, go after asbestos rather than some other type of fiber that may be around but less harmful.

Senator SCHWEIKER. In protecting workers, we know that there is no totally safe environment. I think that is fairly obvious. We all have some degree of exposure to a potentially hazardous environment.

Homes along automobile routes is a good illustration of that.

My question is, do you make any attempt at incremental analysis of the cost of a standard?

For example, it may cost $1 million to protect 95 percent of the workers, and it may cost $10 million to protect 96 percent. It may cost $1 billion to protect 99 percent of the workers. Do you make any differential?

Dr. BINGHAM. Absolutely. We do incremental cost-benefit analyses, if you want to call it that, all the time.

Senator SCHWEIKER. Is that a key factor before you issue a new regulation, or before you send inspectors?

Dr. BINGHAM. Yes, it is a key factor.

For example, in the coke oven standard, we know we are not going to protect every worker. There is still going to be a risk of developing lung cancer. The technology is actually one of the limiting factors there.

In the case of the cotton dust standard, that sort of analysis occurred. I can give you a breakdown on a lower standard. Actually, that is part of a study that we are doing for this committee.

COTTON DUST STANDARD

Senator SCHWEIKER. Incidentally, I took your side in the cotton dust standard. I want to make the record clear. We've got to fight some pretty bloody battles over these standards, and I would like to know when I go into a battle that we've got the facts, the expertise, and the accounting judgment to back them up.

Dr. BINGHAM. Let me point out in that particular standard, previously there had been a proposal for one level across the whole cotton industry.

It was because we analyzed the benefits and the costs and the kinds of technology that are available that we determined with different levels, in different segments of the industry. We certainly did such an analysis that you described. The original cost estimate was $2.7 billion, and our standard was estimated to cost $656 million.

So, I understand the resource question of this country as well as——

Senator SCHWEIKER. So, you are saying, I guess, in summary then, that on every specific standard that you promulgate, there is a cost analysis, there is an incremental cost breakdown, and there is an attempt to weigh the cost benefits.

Is that what you are saying?

Dr. BINGHAM. Sometimes, we don't know the benefits. I cannot tell you that in every one we do that. I would hate to see that absolute requirement go on, because the benefits are very difficult to put in the terms of the economists that we would like to have you put them in.

Senator SCHWEIKER. But isn't that our responsibility? We are going to fight the battle of saccharin right in this room again. And it is very difficult to assess what the benefits of saccharin are. Because to the diabetics and the weight watchers, it is very critical. To other people, it is not much benefit.

We've got to do that. That is our job. We are going to have to make a law one way or the other. Why shouldn't you have the responsibility to assess the benefits even where they are difficult to assess? I think that is as much your resonsibility as ours, even though it is difficult to assess. Somebody has to do it.

Dr. BINGHAM. We are attempting to do it whenever it is possible, and I don't think there is any question about that.

Senator SCHWEIKER. I'm sorry?

Dr. BINGHAM. We are attempting to assess the costs and benefits wherever it is possible. What I'm saying is that the end result, the data that we get out at the end is difficult to assess.

If the hazard is great enough, you know, if there are going to be 1,000 workers die of lung cancer as a result of not regulating, how do you weigh that against the cost of the regulation?

PRODUCTIVITY VERSUS REGULATIONS

Senator SCHWEIKER. Well, again, some are very difficult to assess. I think it is still our and your responsibility to assess them.

One of the other points in productivity that I would like to ask you about: I'm sure you are very well aware of what has happened to productivity in this country, and how it has taken a nosedive.

We are way below our competitors in the trading community, such as Germany and Japan.

The people who analyze productivity say that regulations, and OSHA certainly takes a good share of that responsibility, and EPA does, too, and throw the others in there—it just seems to me that here we are in a deficit balance situation. Here we are where our dollar is getting clobbered. Here we are impacting in a way that nobody ever envisioned in terms of productivity, and I think we have a key responsibility to put that cost balance in there.

Obviously, it has to be weighed against benefits. No question about that. It just seems to me that international problems and domestic problems and productivity have to have an impact on what you do.

Dr. BINGHAM. I think you are absolutely right. I think that we can demonstrate, and I would submit some of those studies for you, that modernization of technology can actually improve productivity of the chemical industry by and large—let me give you an example.

Vinyl chloride is perhaps the best example that I can come up with at the spur of the moment. The vinyl chloride standard required modernization and better maintenance by industry to come into compliance with that standard.

It turned out that output, if you want to really call it that, was actually improved, because vinyl chloride could be manufactured at a lower cost per pound after the vinyl chloride Occupational Safety and Health standard was put into effect.

I would say frequently compliance with these standards can result in increased productivity.

Now, in another area, there have been studies done, and I think you may recall some of those, on noise, demonstrating that on some assembly lines, that when the noise is actually reduced, and certain kinds of modernization techniques are installed, that productivity increases, and I can submit that for the record if you would like for me to do so.

What I'm saying is they are not antagonistic in the occupational safety and health field, modernization, reducing the amount of contaminants in the air leads to a more productive work force. A healthy work force has to be more productive. A work force where you look around the room, and everybody has a missing digit, where workers live in fear that a punch press, which is not guarded, is going to chop off their arm, cannot be a very productive work force.

OUTSIDE CONSULTANTS

Senator SCHWEIKER. One complaint I did receive from some constituents, that I hope you will look into, is that when OSHA awards a contract to set a standard, they normally employ an outside consultant.

When the outside consultant functions in his capacity as an arm of the executive branch, there seems to be a problem of communications with the people who are involved and who will ultimately have that standard set upon them. The complaints I get are that when an organization that is going to be the recipient of that standard attempts to communicate with the persons that you have hired, they pass the buck and say, look, we are just a consultant,

you will have to see the OSHA people; we can't get involved in that.

And then when you go to OSHA about it, they say they are not specialists in that, that is really the consultant's responsibility. It is really a catch-22 situation. I've heard a number of times this occurs because you are employing an outside technical person. The result is there is no remedy or no give and take in the process of standard setting.

I really think we need some way of getting to the person who is involved in that procedure before the whole thing is set in concrete, because then it becomes a regulatory battle between the haves and the have nots.

I wonder if you would look into that problem for me, and maybe come back with some way where the person who is having the standard set will have an input without being passed from one to the other with no remedy in the proposed standard.

Dr. BINGHAM. I will do that, and I will talk specifically with you about your constituents who have had this problem.

I would say that sometimes the contractor may be collecting data, in which case I would hope that we would make that——

Senator SCHWEIKER. Dr. Bingham, who should give that constituent a direct response to the inquiry in the process of this?

Is that the Labor Department's responsibility or is that the contractor's responsibility?

Dr. BINGHAM. I would say, by and large, we should take that responsibility upon ourselves. I would never want to pass the buck to any constituent. If you would have that person come to me, I will meet with him and with the contractor, if that were necessary, and say, OK, what do you want, and we will help you with it.

I abhor passing the buck and not dealing with anything like that straight on. I can think of some constituents in your State that we sat with and actually, I think, worked out a——

Senator SCHWEIKER. I think one of the problems is that some of these become very, very technical, and only a very limited number of people can fully understand scientifically what is happening. I think you have to look at setting up a mechanism in your own department.

Dr. BINGHAM. We could actually sit with the contractor so that the contractor would feel they were free to provide the technical information. Of course, we have due process.

Senator SCHWEIKER. But that is the point. That is why we get these 10-employee limitation amendments right here. That is exactly my point. We let it go, and it becomes a case where it is in concrete, and then Tom Eagleton and I have to do that battle. We get smeared to smithereens, because somebody didn't do their homework in the first place. That is my point. I appreciate your response. I think it is constructive.

Dr. BINGHAM. One of the more important things we do, and we do try to keep committees to a minimum——

CONGRESSIONAL REVIEW OF REGULATIONS

Senator SCHWEIKER. That is why there is a big sentiment building up for Congress to have the right to veto any regulation made.

We can due process forever, and if you do that, it is going to be the end of the regulatory system as we know it.

Dr. BINGHAM. One of the best examples of reviewing standards is the way that Dr. Purswell is working on revisions to safety regulations.

We get together on task groups formed from the affected industries, the worker groups, and some public people who are knowledgeable, and let those individuals sit down and discuss the proposed regulations in detail.

I for one think that that is one of the best ways to actually come up with some of these regulations.

Senator SCHWEIKER. Thank you, Tom.

COST-BENEFIT ANALYSIS

Senator EAGLETON. Dr. Bingham, on this point that Senator Schweiker has been discussing with you, on the cost benefit, I bring to your attention as symptomatic of the congressional mood, Senator Nelson and I put in a bill mandating that there be a cost-benefit analysis of every governmental regulation, including cost-benefit analysis of paperwork involved.

I think it is somewhat significant, the two of us put this bill in, and Senator Nelson was the inventor of Earth day.

Also, you should note that Senator Ribicoff intends to put in a bill on the same general subject matter, and it will be referred to the Governmental Affairs Committee, so there will be hearings on the bill, and there is likelihood that the bill will be enacted.

This art of cost benefit, at times, I admit, is an imprecise art. But it is very likely that you and everyone else in the Federal Government will have to make these cost-benefit analyses, imprecise as they may be. It is a reflection, as Senator Schweiker points out, of inflation, of a lack of competitiveness sometimes with foreign suppliers. It is a reflection of a lot of things. And I merely bring that to your attention, that that may well be the law of the land later on this year or next.

Dr. BINGHAM. Well, I think that the one word that I would hope that we would think about is the word "balancing." That we not be mandated to say if it costs $1,000 per worker, you can put in the standard. But if it costs $1,005 per worker, that you not be allowed to do it. I hope that some judgments be allowed in our considering the benefits and the costs of the standard.

Senator EAGLETON. I give you a classic case in point. It comes out of EPA, not OSHA, but it almost could have come out of OSHA.

Missouri happens to be the largest lead State. There are seven primary lead smelters in the United States. Three of them happen to be in Missouri.

At EPA, Mr. Costle had before him two bodies of scientific opinion—not just the people that management hired on the one side, and the people that labor hired on the other—but two outside bodies of opinion from scientists, professors, et cetera. One said that a 5.0 lead standard was safe and sound. Another body of opinion, equally balanced, said no, it ought to be 1.5.

Mr. Costle selected the more stringent standard, and in selecting it had to also admit that there was no current or foreseeable technology by which the standard could be met.

Unless that is rectified, it means that we will go out of the lead smelting business in the United States. The raw lead will be shipped to Mexico, and smelted there under whatever standards Mexico does or does not have, and then shipped back again to the United States.

I think that is the type of thing that is driving some of us up the walls.

Dr. BINGHAM. One of the differences between OSHA and EPA is that the Occupational Safety and Health Act has a statement that says, to the extent feasible, the agency shall protect workers, and technology is one of those elements of feasiblilty.

So I think it would be a little bit different situation with our agency.

SUNSET LEGISLATION

Senator EAGLETON. What do you think of the proposition of an automatic sunset for Federal regulations? Every 5 years, pick whatever period you like, they all be sunsetted, so that you would have to make an overt decision whether to continue or not? It would be a method by which the administrative agencies would be required to periodically review and rereview the continuing efficacy of their regulations.

Dr. BINGHAM. If you mean by sunset, they would go out of existence automatically, and there would be a gap in protection of workers, I would be against that.

Senator EAGLETON. No. I have in mind they would go out unless overtly saved by the administrative agency.

Dr. BINGHAM. I think we are hopefully setting the example by reviewing our safety standards, which were adopted en masse back in 1970. We have made an honest effort to go through that first group of them, and we made a conscious decision to save some and to get rid of others.

We have a group of safety standards right now that we are going over. The fire protection standard. We have a new proposal out that will change that from a 400-page regulation down to a 30-page regulation.

I guess I can't say I'm opposed to it since I am attempting to do that. I can tell you this. With some of the health regulations, we need to review them and establish lower exposure limits. There is no question in my mind about that. Because we find disease occurring at levels below the health regulation, or the permissible exposure limit currently in force.

We have such a major catchup problem to do in the occupational safety and health field, that I would certainly hate to be faced with that immediately.

Furthermore, we are still trying to get around to regulating contaminants that we know cause irreversible lung damage and cancer, that have been around for 100 years or more.

So for us to have to put those off longer, I think, is a horrible commentary.

However, we certainly should put some of our resources into revising and reviewing standards. If it is done thoughtfully, and I'm sure that it would be if this committee were involved, then I think that it is incumbent upon a regulatory agency to carefully review and get rid of outdated standards.

Senator EAGLETON. All right.

Without objection, by the way, we will readjust the hearing record and put all of the OSHA testimony in one spot, and all of the ERISA in one spot, et cetera.

Senator SCHWEIKER. If there is no objection, we will go back to these people.

Back to you, Mr. Warshaw.

TEAMSTERS INVESTIGATION

Senator EAGLETON. What is the current status of the Department of Labor's investigation of the pension and health and welfare funds problems of the Teamsters? What is going on there, or any other trade unions that may have health and welfare funds that may require supervision?

Mr. BALLARD. Senator, we are in court against both the Central States Pension Fund and the Health and Welfare Fund.

They are proceeding about as rapidly as the courts will allow under the discovery procedures, and the objections that are being raised.

We have a special investigation staff which has not been cut in the proposal of this budget that is supporting those two litigations.

Senator EAGLETON. In one pension?

Mr. BALLARD. One is the pension fund, and the other is the health and welfare fund.

That is about the status of where we are now.

Senator EAGLETON. Are there any other unions that you have given specific special attention to?

Mr. BALLARD. We don't target any unions per se. Not even the Teamsters that are targets per se, but because there are thousands of plans that are involved with the Teamsters, obviously, there will be quite a number of investigations involving Teamster plans.

We have litigations currently going against not only some Teamster plans in New York and elsewhere, but also against several other union types of plans. But not all of our litigation and investigative effort is against the union plans. We have taken action on some single employer plans, some small plans, in fact, where there were abuses that were very prevalent.

Senator EAGLETON. What is the nature of the cooperative agreement between the Department of Labor and the Department of Justice in this Teamster situation?

Mr. BALLARD. When the investigation first started, Senator, there was a high level committee, made up of people who are no longer in the Government.

The committee more or less fell apart as other people came in to replace those persons. But currently we meet every other week, or every 2 weeks, and I happen to meet with that work group.

We have the organized crime representation from the Justice Department, as well as the Labor desk. We have our Office of

Solicitor that is currently involved in the litigation, and our own enforcement representatives. We have our Office of Inspector General within the Department of Labor that is now responsible for the organized crime program.

We meet to iron out whatever problems that are brought to us from our various field units, and thus far we have been able to work them all out.

In the event that we do not work them out, then we will take them up to higher levels in the Departments.

Senator EAGLETON. What is the number of people in the Department of Labor that are working full time on the Teamster matter?

Mr. BALLARD. We have 26 people on board out of an authorization of 36. We are now trying to hire the others. That is the number of people that are working for our special investigation staff.

We have other people that are on support units that are dealing with data systems. We have other people that are in the Solicitor's Office that are working the litigation.

GAO REPORT

Senator EAGLETON. Mr. Warshaw, you assign these answers out as you see fit.

The General Accounting Office recently issued a report stating that more vigorous enforcement is needed by the Department of Labor to detect and investigate potential criminals as well as civil violations in the Labor-Management and Disclosure Act of 1969, and the Employee Retirement Income Security Act of 1974.

What is the Department doing to respond to this GAO report?

Mr. BALLARD. Senator, I'll acknowledge this. I was just handed a note concerning that.

We received the report sometime after it was issued first to the Senate.

Senator EAGLETON. It is dated October 24 of last year?

Mr. BALLARD. That's right. It was transmitted to us, I think, about 30 days later.

I have been told that the response is forthcoming, and it may be made directly to some committee of the Senate.

Senator EAGLETON. Let me just give a summary gist of what the GAO report reveals.

It is their belief that the Labor-Management Service Administration officials have insufficient staff and is the primary cause of the lack of effective enforcement of the two acts that I just mentioned.

GAO said that more staff is needed to administer the day-to-day operations, do more field audit work, educate people as to the two laws. Although operating officials have requested additional staff, both the Department of Labor and OMB have not fully granted these requests.

These hearings—it will be quite sometime between the date of these hearings, and the actual markup of this portion of the bill.

So you have some time.

We would like a more indepth appraisal of where you are and where you might be heading in this area, from both a public policy

point of view, and an appropriations and assignment of personnel point of view.

Mr. BALLARD. We will certainly supply that for you.

Senator EAGLETON. OK.

That takes care of our first batch of witnesses, and we will go to OSHA.

Thank you, gentlemen.

Senator EAGLETON. Dr. Bingham, did you have an opening statement?

Dr. BINGHAM. I read it already.

BLS INJURY AND ILLNESS STATISTICS

Senator EAGLETON. Dr. Bingham, the Bureau of Labor Statistics recently issued a report indicating that job-related injuries and illnesses have remained virtually at the same level.

However, the rate of accidents in which a worker lost his life is increasing.

Why has OSHA had so little impact on reducing injuries and illnesses?

Dr. BINGHAM. Well, I think that I would like to comment on those statistics.

First of all, if we look at those statistics, the fatalities—there was a lot of press that the fatalities actually——

Senator EAGLETON. I'll put an article in the record at this point from the December Washington Post entitled "On-the-Job Deaths, Up 21 Percent in 1977, First Such Increase in 4 Years."

[The information follows:]

On-the-Job Deaths Up 21% in 1977, First Such Increase in Four Years

Associated Press

On-the-job deaths jumped 21 percent in 1977, marking the first rise in occupational fatalities in four years, the government reported yesterday.

The Bureau of Labor Statistics also said in an annual survey that the number of injuries on the job last year rose 6 percent from 1976, while work-related illnesses declined 4 percent.

Overall, one out of every 11 workers on the average experienced a job-related injury or illness in 1977, about the same as in 1976, the bureau said.

It said there were 4,760 work-related fatalities last year at workplaces with 11 or more employes. That compares with 3,940 deaths in 1976.

Previously, there had been a steady decline in work-related deaths since the survey began in 1973. There were 5,340 deaths among employers with 11 or more employes that year.

The bureau's fatality figures do not cover employers with 10 or fewer employes because the data is unreliable due to a sharp reduction last year in the number of small employers surveyed, officials said.

On the average, however, there are 800 deaths each year at workplaces employing 10 or fewer people, the bureau said.

Other major findings in the 1977 survey included:

- The number of work-related injuries rose 300,000 from 1976 to 5.3 million, mainly because of an increase in the workforce. Injury rates declined slightly in the mining, transportation and public utility industries, but increased in construction, services, wholesale and retail trade and agriculture.
- About 35.2 million workdays were lost due to job-related injuries, an 8 percent increase from 1976.
- The number of recognized occupational illnesses declined by 6,000 from 1976, to 162,000. Skin diseases or disorders accounted for 45 out of every 100 illnesses.

Dr. Eula Bingham, head of the Occupational Safety and Health Administration, said the latest survey shows that "on-the-job hazards continue to kill, maim and make ill our nation's workforce at an unacceptable rate."

Bingham complained about recent court challenges filed by industry groups to stop OSHA from implementing regulations aimed at limiting worker exposure to harmful substances such as lead, benzene and cotton dust.

Business is too willing to spend its time and resources fighting job safety and health, she said. Instead, she said, business should join OSHA in "an all-out effort to assure working men and women no longer must trade their lives, limbs or health for a paycheck."

Dr. BINGHAM. About that increase, first of all I think it is fair to say that we were shocked when we read that, and we went to work to try to find out what the cause was.

It turns out that the greatest increase—essentially all that increase, and I have the numbers here I can give to you—was in the worksites of 19 or fewer, where we do not penetrate the way we penetrate the larger worksites.

The areas in which fatalities increased the most were mainly in the industries of construction and transportation.

We do try to target construction, but there are an enormous number of worksites where there are 19 or fewer on the job at those worksites.

Actually, there was a decline in the areas of the larger establishments, particularly in the manufacturing and the petroleum industry, where we have penetrated more.

Now we have gone to those places, because of the high injury rates and because of the potential for serious disease.

I would like to point out that there was an analysis of this done for us by, of all places, the "Federal Reserve Bank of San Francisco Newsletter."

I would like to submit this for the record.

Senator EAGLETON. Without objection, it will appear in the record.

[The information follows:]

OSHA News Clippings

U.S. Department of Labor

Tuesday, February 13, 1979

Federal Reserve Bank of
San Francisco Newsletter: 1/19/79

Bum Rap For OSHA?

Grisly statistic: some 4,760 American workers died at their desks or on the assembly line in 1977. But to put that figure in context, roughly 1.8 million Americans died off the job in 1977, which might suggest that the factory or office is actually a much safer place to be than the highways and homes of the nation. Still, one government agency is very concerned about those 4,760 Americans, especially because their deaths represented a 21-percent increase over the previous year.

This agency is the Occupational Safety and Health Administration (generally referred to as OSHA), which was established in mid-1971 to "assure a safe and healthful workplace" for all Americans. Such a charge is no simple matter, and OSHA's efforts to achieve this goal have sometimes antagonized both business people (who complain that OSHA undermines the efficiency of the nation's factories) and labor leaders (who complain that OSHA fails to ensure improved safety and health conditions).

When the Department of Labor report emerged with the 1977 statistics, the media found good copy in the 21-percent rise in fatalities reported for the year. "Big Increase in Work Deaths Mystifies Federal Officials," trumpeted one newspaper. *Business Week* spoke of the "atmosphere of gloom" that the new report had cast over OSHA.

Fatalities and injuries

Despite the validity of other complaints about OSHA operations, the agency may have taken a bum rap on that particular charge. To see what has actually happened in the nation's workplaces, we should first look beyond a one-year change in the number of fatalities.

While workplace deaths did rise in 1977 by 21 percent, most media reports failed to note that this rise followed an even larger 26-percent decline the year before. Moreover, we should look at a more relevant measure — the number of workplace fatalities as a percentage of the workforce — just as we look at the unemployment rate rather than the number of unemployed. Indeed, this fatality rate was lower in 1977 than in all but one other year of OSHA's existence.

In assessing OSHA's performance, we should remember also that a workplace fatality is a rare occurrence. A much more reliable indicator of the safety and healthfulness of our nation's offices and factories is the work-injury rate, or the number of workplace injuries related to the total number of workers or the total amount of worktime (see chart). The large number of work *injuries* (roughly 1200 times the number of workplace *fatalities*) makes this a more statistically reliable indicator. Also, since this measure is expressed relative to the size of the workforce, it allows us to eliminate the scale effect. It must be noted also that post-1970 data cannot be compared directly with earlier data, since the law that created OSHA liberalized the definition of "work injury," and also established a more

comprehensive and mandatory system of data collection. Furthermore, the post-1970 data also include work-related illnesses, but these account for only about 3 percent of the total.

Business-cycle effect

But even more importantly, to assess the performance of OSHA — or any other program for that matter — we must avoid the before-and-after fallacy. The relevant comparison is not between what occurred this year and last year, but between what *did occur* this year with the program and what *would have occurred* this year in the absence of the program. This suggests that if there are other factors systematically influencing the program's target variable, then these factors must be considered.

In the case of work injuries, there is a fairly well established, albeit little known, relationship between the rate at which workers get mangled on the job and the rate of business activity. Studies of the relationship between work injuries and the business cycle have appeared on and off in the economic literature at least since the 1930's, but generally in fairly remote publications.

The logic behind this pro-cyclical pattern in work injuries goes something like the following. During a cyclical downturn in a firm's new orders, the manager is uncertain whether the decline is temporary or will be sustained over a period of time, so he is somewhat reluctant to lay off workers whom he may soon have to rehire. Thus workers get laid off at a slower rate than the rate at which output declines, and there is a consequent slowdown in the general pace of production. But at the slower pace of output, there is more time for maintenance and repair of equipment. The result is fewer accidents. In addition, the workers who get laid off are typically the youngest and least experienced — a group which tends to be the most accident-prone. This shift in composition of the still-working population away from accident-prone individuals also tends to lower the work-injury rate.

During expansions, both these effects work in precisely the opposite direction. Managers are reluctant to rehire workers as rapidly as new orders increase, for fear they may have to turn around and fire them should the increase be only transitory. The result is an increase in the pace of production, more pressure on workers and less time for maintenance of machinery. Moreover, new hires are less experienced, and even the skills they do have may be a bit rusty due to an extended period out of work. Both of these effects combine to push up the rate at which workers get injured.

Mirror image

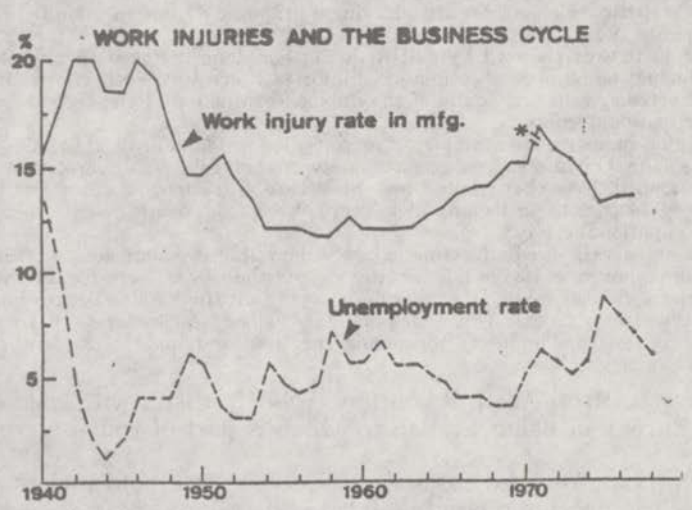
The work-injury rate is almost a mirror image of the unemployment rate — a reasonable business-cycle proxy — although the statistical relationship between the two series is not always stable (see chart). Roughly speaking, a one-percent (not percentage point) decline in the unemployment rate tends to generate a quarter-percent rise in the work-injury rate, according to our experience over the 1942-70 period. Thus the 9-percent drop in the unemployment rate between 1976 and 1977 (from 7.7 to 7.0 percent) should have led to a 2-to-3 percent rise in the work-injury rate, other things equal. In fact, the work-injury rate in manufacturing actually declined by 0.8 percent and the rate for the whole private sector rose by only 0.8 percent. This suggests that there were almost 1 million fewer workplace injuries in the total private economy in 1977 than would have been expected based upon movements in the business cycle alone. This fact contrasts sharply with the impression left by the "21-percent increase" in workplace deaths headlined by the media.

Indeed, in all but two years of OSHA's existence, the work-injury rate fell by more than would have been predicted by the business-cycle effect. Thus, the work-injury rate in 1977 was roughly 3 percentage points lower than would have been expected from the 1971-77 movement of business activity. This translates into

about 2.8 million fewer injuries than we would have expected in the total private economy in 1977 alone. Several factors may have contributed to this improvement, but in absence of evidence to the contrary, OSHA should certainly be able to take some credit for the increasing safety of the American workplace.

What about 1978? We already know that the unemployment rate last year was 14.3 percent below the 1977 figure because of a strong business expansion. This should have caused the work-injury rate to rise by about 3.5 percent if you believe our estimates. The data won't be available until almost year end, but they should show some increase. If the actual injury rate rises by less than 3.5 percent, or if there is an actual decline, OSHA may deserve a pat on the back.

Michael Gorham



*The work injury rate is the number of work injuries per one million hours worked 1940-1970 and per 100 full-time workers after 1970. The two time periods are not directly comparable because of a 1971 change in reporting and definition of a work-place injury.

Dr. BINGHAM. They point out that they think maybe OSHA took a bum rap. The newsletter looked at things differently, taking business cycles into effect. They conclude that the fatality rate, if you look at it in terms of percentages, that is, the fatalities as a percentage of the work force, it was actually lower that year. But if you just look at it as a number from one year to the next, it is apparently up. But that is not the fair way to look at it.

In addition to that, they point out that it looks like that over the long haul, since there has been an Occupational Safety and Health Act, that the work injury rate was roughly 3 percentage points lower in 1977, and they translate this into 2.8 million fewer injuries than we would have expected in 1977 alone. It is a very interesting analysis of these data, and I think that raw data such as that from BLS do not tell the full story, and perhaps we ought to, in the future, withhold judgment on them until we can actually analyze them and interpret their meaning.

I'm going to insist that this sort of analysis be done more rapidly in the future, so that this false impression is not created.

I will submit the newsletter for the record.

Also there was an interesting editorial in the Idaho Statesman, in January, where they point out that there have been some real accomplishments in the State of Idaho since the Occupational Safety and Health Act was passed.

[The information follows:]

[From the Idaho Statesman, Jan. 11, 1979]

OSHA's Contribution

Enemies of the Occupational Safety and Health Administration took note, we hope, of the statistics released recently showing a dramatic decline in the number of industrial accidents in Idaho.

According to figures released by OSHA, Idaho has done better than any other state in reducing the number of occupational injuries. Since 1972, such injuries have declined 37 percent, relieving Idaho of the dubious distinction of the second worst state for occupational safety.

In the logging industry, for example, 18 persons died in Idaho in 1972. In 1978, the number was four. OSHA's successes, fortunately, are invisible. They are accidents that didn't happen, lives that weren't lost. Statistically, though, we can guess that approximately 14 persons in logging alone were saved from death in 1978 through improved occupational safety.

We know not all the credit for this extraordinary improvement goes to OSHA. Obviously Idaho businesses have taken better care of their own to ensure the safety of their workers. But we would be remiss not to note that this decline began shortly after OSHA was established. This much-maligned agency at least deserves equal credit with business and industry for saving the lives and limbs of a significant number of Idahoans.

Senator Eagleton. Well, if you have a beef, it isn't with me, it is with the Bureau of Labor Statistics, which is part of your organization.

Dr. Bingham. We need to analyze the raw data before they are released to the press and create a false impression.

OSHA COMPLAINT INSPECTIONS

Senator Eagleton. Let's move on now to the number of OSHA complaints.

I understand they have been going up in recent years.

Is that so, and why?

Dr. Bingham. Well, I would say, yes, they have been going up. We can give you numbers. But they have gone up, because I think we have a more informed work force.

You will recall back when the kepone episode occurred, that it was a worker's complaint that brought this particularly horrendous situation to our attention.

As a result of our not hiding when there have been major tragedies, of giving the facts to the public, of a better communication with working men and women, I think there is an increased awareness among workers that there are hazards on the job, and so the complaints have increased.

Workers read the paper, as you and I did about leptophos and kepone, and they became aware that a major tragedy was unearthed because of a worker's vigilance and complaint.

I think we are involved in a massive public education effort which is making workers aware of their surroundings, and that is good.

GRAIN ELEVATOR INSPECTIONS

Senator EAGLETON. Do you remember, I think it was a year or so ago, there was a rash of grain elevator explosions around the country, one of which was in Missouri, where at least one workman, I think maybe more, was killed. There was one down in Galveston, somewhere in Texas, and I think there was one around New Orleans, but anyway a series of these occurred over a relatively short, 3- or 4-month period.

Can you give me sort of a status report on the grain elevator situation?

Dr. BINGHAM. Well, I tell you that we have made a concerted effort to alleviate the problem in grain elevators and protect those workers.

We have done everything from mailing letters out, to conducting conferences and symposia on grain elevator problems, in the areas where there are high concentrations of grain elevators.

Over a period of time, we stepped up our grain elevator inspections, so that we literally have put a large number of resources into these areas, and I should point out that frequently these grain elevators are small employers.

And we can give you the statistics. We have taken samples. We have found a number of violations in these areas.

Let's see. I think in 1978 we did a total of 1,464 inspections.

This compares with 350 in 1977.

So you can see the kind of increase we had.

Let me point out some of the major violations were in the area of electrical code violations, that is, places where sparks might ignite.

In addition, there were a lot of what I would call housekeeping dust violations, in other words, concentrations of dust were too high in some of these elevators.

I am grateful. I would like to think it is because of our efforts that these explosions have diminished over the past year.

I would say that the increased public awareness, the increased awareness not only of workers, but of the industry and the measures that they took voluntarily, I am certain, contributed to the decline in explosions. It wasn't just our increased inspections. But it was their voluntary actions that has caused the diminution in the number of explosions.

I would like to point out that the National Academy of Sciences is studying this problem for us. They are evaluating our procedures for investigating explosions.

They are going to come up with recommendations for additional standards, if appropriate, and will make some comment on our current standards that we have available on the books.

We are coordinating this. I can tell you that these tragedies have caused the Department of Agriculture, EPA, and OSHA to work very closely together.

We do participate with the Department of Agriculture in the development of symposia.

The Department of Agriculture, of course, has workers in these grain elevators, and they are very interested in helping us resolve this terrible problem.

POSITION REDUCTION

Senator EAGLETON. Very good.

Your budget justification indicates that 142 OSHA positions are being eliminated.

This includes eliminating 53 of the 200 new compliance officer staff, which was added by this committee last year.

What is your comment on that?

Dr. BINGHAM. Well, my comment on the reduction is that, the Civil Service Reform Act, I believe what was called the Leach amendment, we have a number that we have to get to by the beginning of the next fiscal year, which will be 1,697 compliance officers. That is how it works out for us, a reduction of 53 from the 1,750 authorized fiscal year 1979 position level.

We currently, as of January 31, have 1,507 safety and health compliance officer positions filled.

Now, the way we are going to meet this number of 1,697 that is part of the general service reform is through attrition, by not filling positions; we don't want to lay off anybody. We don't want to overfill, and then have to cut back.

We are trying to do this in what I would call the most equitable way possible.

We are going to be actually reshuffling positions so that in the long run, we will up the percentage of compliance officers by cutting down on the national office staff.

So eventually we will have the right percentage of compliance officers in accordance with what this committee's position was with us.

HEALTH INSPECTION BACKLOG

Senator EAGLETON. All right. Now, with respect to health inspectors. How long will it take, given your present number of health inspectors, to complete the health inspections that are backlogged?

Dr. BINGHAM. Well, our backlog, I think you are referring to, is in the complaint area, and we have those numbers.

But I can't tell you specifically right now.

Senator EAGLETON. Well, supply it for the record. OK?

[The information follows:]

COMPLAINT BACKLOGS

The latest national figures available are those for the end December 1978. At that time the backlog of complaints addressing only health items was 1,834. Another 628 complaints are backlogged that address both safety and health items. This makes a total of 2,462.

If the agency were to stop taking any further health complaints and just investigate the backlog, at the current rate it would take approximately 20 weeks to complete this work.

Dr. BINGHAM. We are trying to come up with a more efficient way of targeting these complaints. Of course, under the act, we must investigate every formal complaint, that is, written complaint, and we are trying to come up with a more efficient means of targeting the informal complaints.

I think it is fair to say that we will not do away with investigating informal complaints, because we know they lead us to some worksites where we find very serious hazards.

The situation down in Texas, where we know that there are a number of workers with brain tumors in this factory, was brought to our attention by an informal complaint. What we will try to do is make a more formal assessment of complaints, and go after the serious ones, and then the less serious others, and we are trying to figure other ways of dealing with those.

ONSITE CONSULTATIONS

Senator EAGLETON. Onsite consultations? How much has the demand for onsite consultation increased since the Dole amendment was passed?

Dr. BINGHAM. I don't think we have really good figures on that yet.

Whether there is an increase as a result of the Dole rider, I don't know, because at the same time we are encouraging onsite consultation. Some of it must be due to the Dole rider. Some of it is because we are promoting the program of onsite consultation. We are making it more readily available.

And I think that we are publicizing the program, so that small employers understand that it is available free of charge.

We are making it available in all States, so that would account for the increase. I can give you specific numbers if you would like to have them. But I don't think I can say what is a result of the Dole amendment, but I can tell you what the total consultation numbers are.

Senator EAGLETON. If you can, supply that for the record.

[The information follows:]

ONSITE CONSULTATIONS

During fiscal year 1978, 16,235 consultative visits were completed by State personnel under the section 7(c)(1) program for furnishing consultation services to employers. The comparable figure for the first quarter of fiscal year 1979 is 4,390. The agency does not collect data from the States, however, concerning the reasons employers request consultative assistance.

Senator EAGLETON. And there will be additional questions that we will provide to you in writing, and we would be pleased if you would supply the answers for the record.

Dr. Bingham, you continue to be, as in previous years, one of the best-informed witnesses before this committee, and we appreciate it very, very much.

That will conclude the OSHA segment.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing along with the accompanying letter:]

ON-SITE CONSULTATION

Question: How are OSHA on-site consultants being trained? What guarantees are there that OSHA consultants are receiving training anywhere comparable to OSHA enforcement officials' training?

Answer: Training of OSHA-funded consultants attempts to equip the consultants to meet OSHA's program objectives, that is, to assist employers in identifying and controlling workplace hazards. Training aims at improving consultant expertise in relation both to OSHA's national program goals, policies, and procedures, and to meet individual training needs.

OSHA has taken or is taking several specific steps to train consultants in implementing the national program design. Consultants who are thought to need it are given the introductory training for compliance safety and health officers (CSHOs) at the OSHA Institute. (Many State consultants have attended this and other training at the Institute prior to joining the section 7(c)(1) State agency consultation program.) In addition, all project consultants and their supervisors are given training at the University of Alabama in the proper classification of hazards (using materials developed for CSHO training), in program operating guidelines, and in communicating and relating skills necessary for effective dealing with smaller businesses.

During FY 1980, consultant training courses are planned at the University of Alabama that will extend consultants' abilities to address health issues, leading to increased sampling and analysis of workplace contaminants. This training will include cross training in health hazard identification and protection techniques for safety consultants (similar to training provided to enforcement staff), and orientation to laboratory procedures and practices for a representative from each State consulting project.

To address individual needs, many consultants are given specialized training at the OSHA Institute and at other sites. OSHA is considering plans for implementing a large-scale upgrading/retraining program for State consultants beginning in FY 1981, after basic levels of service in each State have been established and local priorities have been determined for which each State's consultants will be trained.

Question: How much has the demand for on-site consultation increased since the Dole amendment was passed?

Answer: Requests for consultation are increasing. During the past year extensive efforts have been made to publicize the availability of consultation assistance, particularly for small business. It is therefore difficult to determine how much of the increased demand for consultation is directly related to the Dole amendment.

OSHA STANDARDS PROMULGATION

Question: Both the proposed carcinogen standard and the pesticide standard will be designed to cover large bodies of toxic substances. How will standards for actual substances fit into these frameworks?

Answer: The purpose of standards and policies covering large bodies of toxic substances is to establish a systematic or generic approach for the identification, classification, and regulation of chemicals in the workplace.

The pesticide standard will establish specific requirements for protection of workers engaged in the manufacture and formulation of pesticides. The standard will place principal emphasis on work practices, protective clothing and equipment, hygiene facilities and practices, medical surveillance, and worker training to reduce exposure throughout the pesticide industry. The standard will apply to approximately 1,500 registered active ingredients in pesticides and 2,000 other substances used in manufacturing and formulating pesticides. Within this framework, substance-by-substance rulemakings will be necessary to set exposure limits for the individual chemicals since the diversity of their properties and their toxic effects will probably preclude uniform coverage under a generic standard.

Unlike the generic pesticide standard, OSHA's cancer proposal is a policy and not a standard; the policy does not in itself regulate any specific cancer-causing substance but rather provides a more systematic, uniform approach for standard-setting in the future. It establishes clear scientific criteria for identifying cancer causing substances and classifying them according to conclusiveness of available scientific evidence. While addressing several important scientific regulatory policy questions, the cancer policy leaves open the issue of an appropriate level of worker protection for each individual carcinogen. Within the conceptual framework of the cancer policy, standards will be set on a substance-by-substance basis. These standards will involve public rulemaking, and consideration of economic and technological feasibility.

Question: How will you adequately evaluate the cost of this program if you are not conducting a cost-benefit study on it.

Answer: Recent experience indicates that neither the data nor the methodology exists to provide strict quantifications of costs and benefits associated with new OSHA standards. To the extent possible, however, the agency does assess costs and benefits in the regulatory analysis which accompanies each proposed standard. In preparing such analyses, OSHA considers not only the costs and benefits of proposals, but also alternative strategies for achieving the desired level of worker protection. Cost-effectiveness criteria are included for each alternative. It is OSHA's intention that a regulatory analysis will be undertaken when exposure limits are set for individual substances.

OSHA has already published a regulatory analysis for the proposed cancer policy which was submitted for review to the Regulatory Analysis Review Group (RARG). Comments received from the RARG and

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from the public are being considered as the final cancer policy is developed. Similarly, a regulatory analysis is being conducted to accompany the generic pesticide standard. Issues pertaining to costs and benefits in this analysis will be subject to public review and comment during later stages of the rulemaking process.

Question: How will promulgation of these standards affect OSHA's standard setting budget?

Answer: With respect to pesticides, the generic standard covering 3,500 substances represents a far more efficient use of OSHA resources than attempting to regulate each substance with a separate rule. In the case of carcinogens, however, the generic policy anticipates subsequent issuance of standards on a substance-by-substance basis. Each subsequent proceeding will require a regulatory analysis costing approximately $250,000 to $300,000.

COTTON DUST STANDARD

Question: What is the status of litigation over OSHA's proposed cotton dust standard?

Answer: The OSHA standard for occupational exposure to cotton dust was issued on June 23, 1978, and went into effect on September 4, 1978 for all affected industries except waste processing. On September 1, 1978, OSHA stayed application of the standard to certain waste processing operations that use cotton batting.

On October 20, 1978, the U.S. Court of Appeals for the District of Columbia ordered a stay of the entire cotton dust standard until a judicial decision is reached on petitions for review that have been filed with the courts. Oral arguments were heard February 14, 1979, and a decision by the Court is expected in late spring. Until then, the 1978 standard is stayed and the previous standard for cotton dust (1000 micrograms of total dust per cubic meter of air) remains in effect.

Question: Can you summarize the key aspects of the cotton dust study which the Labor-HEW appropriation conferees mandated last fall to be completed by March 1, 1979?

Answer: In October 1978, Congress directed OSHA to study the inflationary impact of the cotton dust standard and to review alternatives to the exposure limits set according to this standard. OSHA will submit a study which includes the following:

-- Analysis of the health implications of exposure to cotton dust.

-- Summary of findings from the public hearings on this proposal.

-- Analysis of the alternatives considered in developing the 1978 standard, including estimates of costs and benefits.

-- Analysis of the 1978 standard, including estimates of costs and benefits.

-- Comparison of alternative strategies to control cotton dust exposure, including relevant cost-effectiveness criteria.

-- Projections of net inflationary impact and trade displacement implications.

-- Investigation of long-term solutions to the cotton dust problem.

In accordance with the directive from Congress, OSHA will submit the results of this study in March 1979.

Question: Specifically, what are the major alternatives examined with regard to setting cotton dust exposure limits?

Answer: In developing the 1978 cotton dust standard, OSHA considered several alternatives in addition to the variable approach which characterizes the final standard. These alternatives, involving different permissible exposure limits, include the 500ug/m3 across-the-board alternative, the 100ug/m3 across-the-board alternative, and the 200ug/m3 across-the-board permissible exposure limit in the proposed standard. In each case non-engineering provisions, such as medical surveillance and work practices, were included.

COST BENEFIT STUDIES FOR NEW OSHA STANDARDS

Question: Are there budgetary reasons as to why you are not preparing thorough cost-benefit studies for new OSHA standards as you did in the past?

Answer: The Occupational Safety and Health Act is primarily prevention-oriented public health legislation which establishes the right of workers to safe and healthful working conditions. In promulgating new standards, OSHA must set "...the standard which most adequately assures, to the extent feasible...that no employee suffers material impairment of health...even if such employee has regular exposure to the hazard dealt with...for the period of his working lifetime." (Sec. 6(b)(5))

OSHA's primary mandate is thus to protect American workers. Yet, its purpose is not to protect employees by putting employers out of business. Nor is it to cause employers to spend more money than necessary to comply with OSHA's standards.

Therefore, the first step in OSHA's standards-setting process is to determine on the basis of scientific evidence the levels of protection needed to assure workers health and safety. Then an assessment of the technological and economic capabilities of affected industries is made. Such industries are required to provide health and safety protections to the extent feasible without threatening their economic viability.

The Act neither requires nor permits OSHA to rely solely or

primarily on cost-benefit analysis in making decisions on protective standards (i.e., to make certain that the costs of regulations equal the measurable benefits in dollars). Workers should not be viewed as "human capital." They are human beings with non-quantifiable social and personal needs. Their health cannot be determined by the outcome of a simple mathematical equation.

In setting standards, OSHA believes that important information is gained from economic studies which indicate the most cost-effective means of providing adequate protection for workers (i.e., achieving a given level of worker protection in the least costly manner). However, such studies are presently somewhat speculative since no reliable means exist for assessing the costs of compliance. For example, present accounting procedures do not readily permit the identification of expenditures for regulation apart from those for capitalization, operation and maintenance. It is also difficult to anticipate, prior to the promulgation of a regulation, its effects on technological and industrial innovation. In many cases American industry has found new and less costly methods of compliance than were anticipated prior to the issuance of a standard, for example, in the manufacture of vinyl chloride.

Quantifying in dollars the benefits of an OSHA regulation is even more speculative. Placing a reliable and meaningful dollar value on human life is not possible at this time. Moreover, failure to reduce work-place hazards results in enormous costs in terms of workers' compensation, disability and health insurance, lost productivity, worker turnover, and reduced quality of life. As methodologies and data improve, it may be possible to more reliably define these costs.

In sum, OSHA intends to continue to improve the evaluation of health effects and the economic feasibility of OSHA standards. But such information should not be placed in a rigid cost-benefit equation to determine levels of employee protection. Rather, this information should be considered along with all other relevant information to facilitate rational decision-making.

OSHA HEALTH COMPLAINT INSPECTIONS

Question: How big is your backlog of health complaint inspections?

Answer: The latest national figures available are those for the end of December 1978. At that time the backlog of complaints addressing only health items was 1,834. Another 628 complaints are backlogged that address both safety and health items. This makes a total of 2,462.

Question: How long would it take, given your present number of health inspectors, to complete the health inspections in your backlog?

Answer: If the agency were to stop taking any further health complaints and just investigate the backlog, at the current rate it would take approximately 20 weeks.

Question: Are your health inspectors so rushed because of the demand for inspections that they cannot do a thorough job?

Answer: Health compliance officers do not rush or curtail any inspection for time's sake. They are instructed to do a thorough job of identifying the complaint or any other hazard brought to their attention when making these inspections. However, because of the number of backlogged complaints, industrial hygienists must sometimes limit inspections to the specific areas mentioned in the complaint.

Question: How long does the average health complaint, as compared to the average safety complaint, sit on a regional or area officer's desk before it is answered?

Answer: Imminent danger complaints are inspected within 24 hours. The lapsed time for inspecting other complaints is determined by the seriousness of the problem. Lapse time also varies from office to office depending upon resources available and the current number of complaints backlogged. The average national lapse times are currently estimated at:

Serious Safety Complaints	1 week
Serious Health Complaints	2 weeks
Other Safety Complaints	2 weeks
Other Health Complaints	3+ weeks

These are average figures. Some area offices in heavily industrialized areas average twice the above lapse times.

Question: How long does it take for a health inspection now compared to a few years ago?

Answer: Several years ago the average number of hours for conducting health inspections was approximately 22 hours per inspection. In fiscal year 1978, the average was 42.6 hours per inspection. Many factors have contributed to this increase. The major cause is a vast improvement in the quality of inspections and inspection findings. More samples are being taken to better document where a hazard exists. In addition, existing engineering controls are being analyzed to see if they protect workers adequately, and the feasibility of new methods of control are being explored.

OSHA COMPLAINT VS. PROGRAMMED INSPECTIONS

Question: How meaningful is OSHA's policy of directing 95 percent of its programmed inspections to hazardous industries since there are so few programmed inspections?

Answer: Excluding migrant farm labor housing inspections (mandated by a court decision), 94 percent of all programmed safety and health inspections during the 1st quarter of fiscal year 1979 were conducted in "high risk" sectors of employment. More than 22,000 programmed inspections are projected for this fiscal year, with most of them to be conducted in higher risk industries.

Question: Why does OSHA believe it must investigate virtually every complaint, whether it comes from a worker or not, however trivial it appears? Does OSHA have any plans to reduce the number of complaint inspections?

Answer: OSHA's policy is to determine if an inspection is warranted, based on reasonable grounds for believing that a violation or danger exists. The Act mandates that all formal employee complaints meeting these criteria be investigated. However, since December 1, 1977, area directors have been authorized to seek corrective actions for non-formal, other-than-serious complaints, by written notification to the employer. If the employer agrees to comply, and the complainant confirms that the hazardous conditions have been corrected, no inspection is made. This procedure may be followed if it appears that an on-site investigation is not warranted, or if because of the degree of seriousness relative to other backlogged complaints, an investigation cannot be scheduled within 20 working days of receipt of the complaint. Other options for more effectively managing complaint inspections are currently being investigated.

TASKFORCE ON WORKPLACE SAFETY AND HEALTH

Question: What response have you to any of the recommendations of the President's Interagency Task Force on Workplace Safety and Health toward improving the cost-effectiveness of OSHA?

Answer: Although we have not completed our internal review of the Task Force recommendations, many of them parallel the "common sense" approach that the agency has pursued since the beginning of this Administration. In particular, the recommendations involving more precise focusing of enforcement policies deserve consideration.

OSHA recognizes the enormous diversity of industrial activities and workplace hazards that exist in approximately five million covered establishments. It is clear that no single policy or program will have the same impact on every workplace, so it is necessary to develop and evaluate alternative approaches to the use of resources For example, the agency has instituted a "worst-first" strategy for allocating scarce inspection resources. The agency has also initiated the "New Directions" grants program to increase the impact of employer and employee training in occupational safety and health. As the Task Force recommends, new ways to encourage voluntary compliance are being explored continually.

The Task Force report also contains a number of recommendations, such as the stewardship program and an "economic-benefits" penalty system, that had not previously been explored by the agency. Conceptually, many of these proposals are interesting and could improve OSHA's cost-effectiveness. However, they have significant administrative, legal and budgetary ramifications which are currently being examined. It has not yet been determined which of the Task Force's specific recommendations can be implemented, but the agency will continue to pursue those recommendations which appear most promising.

OSHA's mandate to protect the health and safety of more than 60 million workers is enormous. Thus it is incumbent to continue to develop cost-effective policies that assure maximum worker protection.

OSHA STATE PLANS

Question: How far has OSHA progressed in drawing up guidelines for States to achieve total independence of the Federal OSHA Administration?

Answer: OSHA had previously interpreted an 18(e) determination to be the formal relinquishment of Federal jurisdiction in a State based on a finding that the State is providing "at least as effective" worker protection as that provided by the Federal program. However, as a result of recent litigation, AFL-CIO v. Marshall, the court struck down the "at least as effective" criteria for measuring State performance. This decision also nullified existing regulations. The resulting court order requires OSHA to establish benchmarks for the resources and numbers of safety and health enforcement staff needed in each State to provide "fully effective" worker protection, and to develop timetables for States to meet that benchmark within five years. OSHA is currently developing these staffing benchmarks and the timetables for their achievement. The order requires that this be accomplished by June 5, 1979. In addition, all regulations and directives must be revised to remove the "at least as effective" criteria. Because OSHA's regulations and State evaluation standards have been overturned, and the court order requires that States meet the 100% benchmark level prior to the agency making an 18(e) determination, such actions are unlikely to occur in most States for at least five years.

Although not specifically required by the court order, OSHA is in the process of establishing six workgroups (composed of outside experts, State representatives and OSHA personnel) who will be asked to recommend to the Assistant Secretary what the qualitative elements of a "fully effective" program should be, and how they can best be measured.

OSHA TRAINING

Question: What kinds of new training are being done to better prepare individuals to be good health inspectors -- especially at the State level?

Answer: The OSHA Training Institute offers courses in industrial health to both Federal and State industrial hygienists. The courses offered are continuously being updated. New courses have been developed in toxicology, and covering health hazards in grain elevators. These courses are designed to improve inspectors' recognition and evaluation of health hazards. State industrial hygienists are also encouraged to participate in training outside of OSHA, including courses offered by NIOSH and universities. OSHA's regional and area offices provide technical assistance to State occupational safety and health agencies.

In addition to these training opportunities, States have developed internal training programs focusing on specific issues relevant to their own needs. States also provide on-job training for health inspectors. This training is closely monitored by OSHA area and regional offices.

Question: Have you any suggestions for making the training of inspectors and workers more efficient and more cost-effective.

Answer: Certain practices have been established to increase the efficiency and cost-effectiveness of OSHA training activities. For example:

-- If a number of inspectors in one field location need the same training, instructors from the OSHA Training Institute will go to the field location-- thereby reducing overall travel costs.

-- Senior OSHA compliance personnel share their expertise with less experienced compliance officers-- a cost saving when compared to obtaining specialists from the private sector.

-- Specialized training is obtained from existing training facilities such as the National Institute for Occupational Safety and Health (NIOSH), the Los Alamos Scientific Laboratories, the Mine Safety and Health Academy, and others--a cost effective alternative to recreating these capabilities at the OSHA Training Institute.

OSHA is also exploring the use of computer-assigned means for meeting special training needs, for automating test development, and for providing trainee training-and-experience record support. After the initial stages of such systems, the cost savings may be highly significant.

The recent OSHA initiative in creating centers of occupational safety and health competence within trade unions, trade associations, academic institutions, and other groups involves a cooperative funding plan for decreasing Federal support each year. This program is intended to multiply workplace safety and health expertise in a highly efficient and cost effective manner.

SURVEY OF OCCUPATIONAL INJURIES AND ILLNESSES

Question: How do you expect to make the most efficient use of inspection efforts in small businesses with high injury/illness incidence rates if you have no reliable statistics on the incidence rates for small businesses?

Answer: While the BLS survey does not cover enough small businesses (1-10 workers) to provide accurate estimates of fatalities, which are statistically rare occurrences, it does provide useful rates for job-related injuries and lost workdays. These rates for individual industries provide a basis for ranking industries according to degree of hazardousness. For example, the BLS survey indicates that small sheet metal works are more hazardous than small non-ferrous foundries. These relative rankings are used to direct inspection resources to the most hazardous small worksites, i.e., those in industries with relatively high injury/illness and lost workday rates. Moreover, if small and large businesses in an industry have similar occupational hazards, OSHA inspects worksites for all size groups in that industry.

In the health area, however, the annual BLS data is of limited value since incidence and lost workday rates are far less reflective of health hazards than safety hazards. This is because work-related illnesses are frequently not recognized as such. Using other data resources, OSHA is working on the development of a targeting model for programming health inspections in industries where workers are likely to be exposed to toxic substances.

OSHA NIT-PICKING

Question: What has OSHA done over the last two years to eliminate harassment of small employers and get rid of nit-picking regulations? Cite examples.

Answer: In an effort to ease the burden of compliance for small employers, the present OSHA administration is pursuing the following programs:

OSHA's approach to assisting small business is to help workers and employers in hazardous industries protect themselves by making training and consultation materials available to them. At the same time, the agency attempts to avoid scheduling inspections of small firms involving employments which are relatively safe. This approach is reflected in the "worst-first" inspection priorities which require 95 percent of programmed inspections to be scheduled in higher hazard industries. However, OSHA will continue to conduct inspections of small firms engaged in construction, grain storage, chemicals, and other hazardous industries--for the protection of employees (as well as their employers, who may be working with them).

OSHA is currently reviewing and eliminating regulations that are not essential to worker protection, and streamlining those which are. On October 24, 1979, OSHA revoked 928 provisions of safety standards which were deemed unneeded or unrelated to job safety and health. The elimination of these provisions trimmed approximately 10 percent of the word volume from OSHA's standards. The deletion of these unnecessary standards will enable small businesses to focus their attention on serious workplace safety and health hazards.

In a related endeavor, the agency has consolidated its construction safety and health rules with those general industry rules which are applicable to the construction industry. The compilation of these rules into a single volume allows employers in the construction industry to easily determine which standards are applicable to their workplaces. The results of this action, which was undertaken at the request of the industry, appeared in the February 9, 1979 Federal Register. More than 90 percent of firms engaged in contract construction have 25 or fewer employees.

OSHA has also issued a proposal to streamline and simplify its standards for fire protection. This proposal will eliminate overly complex and lengthy rules for fire protection which have remained unchanged since their adoption in 1971. An example of the improvement to be expected under this proposal is that the standard dealing with automatic sprinkler systems will require only one page in the Federal Register; the present National Fire Protection Association standard comprises 169 pages.

In general, all recordkeeping requirements for small business employers have been eliminated. A few employers with 10 or fewer employees are still designated to maintain (on a rotating basis) a log of job-related injuries and illnesses, for the Bureau of Labor Statistics' annual statistical survey of injuries and illnesses by employment size, but the number of small businesses required to do so has been reduced from 191,000 in 1977 to 60,000 in 1979. The Federal Paperwork Commission has estimated that OSHA has saved businesses more than $100 million per year through paperwork reform.

OSHA has distributed almost two million copies of its "Small Business Handbook," to encourage voluntary compliance with standards. All major agency actions are now explained in clear, simple language in publications, films, slide shows, and tapes--all of which are available to small businesses. In addition, Federal funding for free, on-site consultation has been increased to 90 percent so that employers can obtain assistance in understanding their responsibilities under the Act. Priority for consultation is given to small business.

In October 1978, OSHA awarded "New Directions" training and education grants totalling $6.4 million to 86 businesses, employee groups, and educational organizations for developing institutional competency in job safety and health. One of the primary criteria for evaluating applications for this grant program is the organization's ability to serve small business. As a result, many of the employer organizations and universities that were funded in 1978 are now serving workers and employers in small business enterprises. In 1979, OSHA will continue to expand these initiatives to aid small business.

MAR 14 1979

Honorable Warren G. Magnuson
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Senator Magnuson:

A review of the transcript of our hearings before your Appropriations Committee reveals a misunderstanding on my part in responding to a series of questions regarding cost-benefit analysis. I would like to clarify for the record the agency's position on this issue.

The Occupational Safety and Health Act is primarily prevention-oriented public health legislation which establishes the right of workers to safe and healthful working conditions. Yet the purpose of the Act is not to protect workers by putting employers out of business. Nor is it to cause employers to spend more money than necessary to protect workers. Therefore, the first step in our standard-setting process is to determine on the basis of scientific evidence the level of protection needed to most adequately assure workers' health and safety. Then an assessment of the technological and economic capabilities of affected industries is made. OSHA does not set permissible exposure limits that are technologically infeasible. In addition, the agency seeks to avoid significant economic disruption among affected industries. Both of these factors have been defined by the courts.

In setting standards, OSHA believes that important information is gained from economic studies which indicate the most cost-effective means of providing adequate protection for workers (i.e., achieving a prescribed level of worker protection in the least costly manner). However, such studies are presently somewhat speculative since no reliable means exist for assessing the costs of compliance. Moreover, determining whether the costs of a regulation equal the benefits at the margin cannot be done given existing methodologies and data. For example, present accounting procedures do not readily permit the identification of expenditures for regulation apart from those for capitalization, operation and maintenance. It is also difficult to anticipate, prior to the promulgation of a regulation, its effects on technological and industrial innovation. In some cases American industry has found new and less costly methods of compliance than were anticipated prior to the issuance of a standard.

Likewise, it is difficult to quantify or to express accurately in monetary terms all the benefits of regulation. Failure to reduce workplace hazards results in enormous costs in terms of workers' compensation, disability, medical expenses and health insurance, lost productivity, and worker turnover, but it is not feasible at this time to make a reasonable association between types of accidents or illnesses and subsequent costs. Moreover, some benefits such as decreased pain and suffering, and a better community and family life, can never be quantified.

OSHA is concerned about the effects of its regulations on the allocation of resources in the private sector. With this in mind, the agency has committed itself to a substantial upgrading of pre-regulation analyses. More effective analytical methods and improved data bases are now being developed. However, OSHA is also concerned that economic considerations not be the primary basis for decision-making. We do not believe that workers should be viewed as "human capital." They are human beings with non-quantifiable value, personal needs and feelings. Their health should not be determined by the outcome of a mathematical equation. OSHA therefore favors the use of a "cost effectiveness" approach to setting standards. That is, the agency examines alternative means for achieving prescribed levels of worker protection.

In summary, OSHA will continue to improve the feasibility analyses which accompany new standards. An examination of recent regulations (e.g., cotton dust and lead) reveals a significant improvement in this area over the last several years. However, we do not believe that a rigid cost-benefit formula should be utilized in the standard-setting process. Moreover, incremental cost-benefit analysis is far too theoretical to be applicable, given the limitations of existing methodologies and data bases. If such data and analytical techniques existed, we are confident the evidence would show that in the long run the costs of OSHA regulations are fully justified in terms of health, equity and economic efficiency.

I hope this statement will clarify OSHA's position on the use of cost-benefit analysis in setting health and safety standards. Given the strong public and Congressional interest in this issue, I believe it would be a useful contribution to insert this letter into the record of OSHA's appropriations hearings of February 22, 1979.

Sincerely,

Eula Bingham

Eula Bingham
Assistant Secretary
Occupational Safety and Health

Mine Safety and Health Administration

STATEMENT OF ROBERT B. LAGATHER, ASSISTANT SECRETARY

ACCOMPANIED BY:

JOSEPH O. COOK, ADMINISTRATOR, COAL MINE SAFETY AND HEALTH

JOE H. COOLEY, DIRECTOR, ADMINISTRATION AND MANAGEMENT

ECKEHARD MUESSIG, DEPUTY ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH

THOMAS J. SHEPICH, ADMINISTRATOR, METAL AND NONMETAL, MINE SAFETY AND HEALTH

WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT

WILLIAM T. FURMAN, ACTING DIRECTOR, OFFICE OF BUDGET

Senator Eagleton. We now have the Mine Safety and Health Administration. Mr. Lagather, you may proceed.

Mr. Lagather. Thank you, Mr. Chairman. We have submitted a statement for the record. I will read a short summary, if it is acceptable.

[The statement follows:]

STATEMENT OF ROBERT B. LAGATHER

Mr. Chairman

I appreciate this opportunity to appear before your Committee to present the Department's mine safety and health program plans for FY 1980.

Our request for FY 1980 totals $131.7 million and 3,663 positions to conduct mine health and safety activities of enforcement, assessments, education and training and technical support.

Enforcement

A total of $87,491,000 and 2,775 positions is requested for enforcement activities in both coal and metal/nonmetal mines. These resources will provide for an estimated 20,730 complete health and safety inspections of coal mines and 22,000 complete health and safety inspections of metal/nonmetal mines. In addition to these complete inspections, follow-up or spot inspections will be conducted to assure that violations against health and safety standards cited during the regular inspections are corrected and for other special purposes.

Additionally, inspections at irregular intervals are required during each 5, 10, or 15 days in those mines liberating excessive quantities of methane or other explosive gasses, where methane or other gas ignitions or explosions have occurred during the previous five years resulting in death or serious injury, or where there exists other especially hazardous conditions. There are currently 223 coal mines and 3 metal/nonmetal mines that will require these types of inspections.

If FY 1980 work will continue on new standards for which rulemaking was begun in FY 1979, such as construction on mine property and revisions to existing safety and health standards, such as those requiring self-rescue devices for metal/nonmetal mines. I would like to emphasize that, in accordance with Executive Order 12044 on improving government regulations, all existing standards and regulations will be reviewed to determine their overall and individual adequacy and effectiveness in terms of our goal of reducing deaths, injuries, and illnesses in the Nation's mines.

Assessments

A total of $6,524,000 and 196 positions is requested for our assessments program in FY 1980.

The objectives of our assessment program are to assess civil monetary penalties for all violations of the Act consistently and in accordance with statutory criteria in a manner that will encourage compliance. To attain this goal we currently operate an assessment program which is designed to rapidly assess all violation citations in an efficient and effective timeframe and a conference program which is designed to give the operators and miners an opportunity to contest an assessment without going through the formal adjudication process.

This approach has proven successful in the past and we are proposing to continue it in FY 1980.

Education and Training

A total of $10,843,000 and 109 positions are requested for our education and training program. This request is a reduction from our FY 1979 levels and reflects the changing direction of our education and training program. Prior to the passage of the Federal Mine Safety and Health Amendments Act of 1977, the role of our education and training program was one of platform teaching and training cooperative industry instructors. Our new role is one of a continuing review, approval and monitoring of training plans for the estimated 22,000 mining operations.

A total of $6,000,000 is requested for our State Grants programs. During FY 1979 we received proposals from 24 States, nine of which just became eligible for grants under the new Act, and we anticipate the same high level of state interest and participation in health and safety programs in FY 1980.

Technical Support

A total of $17,409,000 and 406 positions is requested for our technical support program. This program is responsible for the statutory requirements relating to the approval and certification for use in mines of equipment, instruments, materials, explosives, and personal protective apparatus and the collection, analysis and publication of injury and illness data from the mining industry. It supports our enforcement programs by establishing technical criteria for environmental controls for health protection, weighs and analyzes respirable dust samples, and provides engineering evaluations of mine ventilation and ground control plans, power distribution, and illumination systems. Providing mine rescue equipment and assistance for rescuing miners trapped in emergency situations is also included in this program. Technical support specialists investigate problems of compliance with health and safety standards and recommend state-of-the-art solutions. Liaison is maintained with the Department of the Interior's Bureau of Mines, National Institute of Occupational Safety and Health, and other Federal agencies in the development and conduct of mine safety and health research programs and the dissemination of research results to other segments of MSHA and the mining industry.

Program Administration

A total of $9,443,000 and 177 positions is requested for this program which provides for the effective executive direction and administrative management support for our safety and health programs.

This concludes my prepared statement. Members of my staff and I welcome this opportunity to answer any questions you and members of the Committee have regarding our budget request.

FISCAL YEAR 1980 BUDGET HIGHLIGHTS

Mr. LAGATHER. The fiscal year 1980 budget request totals $131,710,000 and 3,663 positions. This request represents the continuation of Federal efforts in providing for the safety and health of our Nation's miners through programs of enforcement, assessments, education and training, and technical support.

During fiscal year 1980, we estimate that more than 42,000 complete inspections will be conducted at an estimated 22,600 coal and metal and nonmetal mines. Approximately 50,000 other inspections will also be made to assure compliance.

We will continue our program of assessing civil monetary penalties for all violations consistently, timely, and in accordance with statutory criteria in a manner that will encourage compliance.

We will be redirecting our educational and training program. After having approved approximately 22,000 training plans in 1979, emphasis will be placed on monitoring these plans for both compliance and effectiveness. Grant funds are also requested to continue State participation.

In technical support, we will continue our programs of approval and certification of equipment and materials used in the mines, of weighing and analyzing respirable dust samples, and providing evaluation of engineering plans, such as ventilation, power distribution, and illumination systems.

That briefly summarizes our budget request and planned activities for fiscal year 1980, Mr. Chairman.

MINE SAFETY AND HEALTH LEGISLATION ENACTMENT

Senator EAGLETON. Mr. Assistant Secretary, refresh my memory.

Did we pass a bill in the 95th Congress, the last Congress, that broadened the investigative jurisdiction of your department?

Mr. LAGATHER. Yes, sir. The Federal Mine Safety and Health Amendments Act of 1977 became law on November 9, 1977. It also effected a transfer of Federal Safety and Health responsibilities to the Department of Labor in March 1978.

Senator EAGLETON. And we broadened the scope of the mines; is that right?

Mr. LAGATHER. Yes. It took the old coal act and broadened some of its provisions and then added the metal and nonmetal mines. It really did away with the 1966 Federal Metal and Nonmetallic Mine Safety Act and brought the metal and nonmetal mines under the broader aspects of the new act.

FISCAL YEAR 1980 BUDGET LEVELS

Senator EAGLETON. Does your budget request take into account fully the additional burdens, the additional duties that are now yours?

Mr. LAGATHER. I fervently hope so. I think we can do it for what we've asked. We've had a tremendous increase in all of our activities, particularly in the metal and nonmetal enforcement area, as you can imagine.

I think you can recall, Senator, a requirement of four inspections of all underground mines, and two inspections of all surface mines, is our basic enforcement requirement.

We think that we will be able to come close to meeting those requirements, plus doing the followup inspections that we have to do to see that violations cited during our initial inspections are in fact corrected.

STAFFING REDUCTIONS

Senator EAGLETON. In light of all that, what is the rationale for requesting a reduction of 91 positions for mine inspection?

Mr. LAGATHER. It is some of the same things as Dr. Bingham was referring to—the Leach amendment for one thing. Also, by better placement of field offices, and getting inspectors closer to the mines we hope to increase our productivity. We will not lose in our inspection force.

At the present time, my estimate is that we are using about 33 percent of our inspection time in travel time back and forth to the mines.

If we place field offices in a more reasonable fashion, which we have already started doing, we find that we cut substantially the travel time for the inspectors to get to the mines. In this way, we can also frankly support the President and his concerns on inflation and reducing operating costs. We sincerely hope it is going to do the job.

SAFETY AND HEALTH IMPROVEMENTS

Senator EAGLETON. Is there any indication in the short time that has elapsed since the new Mine Safety Act went into effect on March 1, 1978, of any increase or decrease in reported injury, illness, or fatality figures that may be traced to implementation of that new act?

Mr. LAGATHER. I don't know whether we want to take credit for it. Actually, last year, in coal mining the fatalities in total were reduced to 104. In the year prior to that, there had been 139. However, I hasten to add, Mr. Chairman, you will recall the rather prolonged strike that we had, with a substantial number of people out of the coalfields. So I'm not quite sanguine about taking credit for that. The accident frequency injury rate was reduced, also.

One of the things we did was to change the reporting system with regard to injuries sustained. I know that you are aware that over the years that some questions have arisen about reportable injuries, particularly with large mine companies. When a person got hurt, they would take them off the job and put them in another job which was not the same and they would not report that as an injury.

We are now getting those reports so there is some increase through more accurate reporting. What I'm trying to say is that we think, very positively, that our programs are impacting, but that it is going to take us a little more time to do the tracking.

Senator EAGLETON. OK. We do have some additional questions, Mr. Assistant Secretary. We will propound them to you in writing.

Questions dealing with operations, mining training, et cetera. We will propound those to you in writing and ask you to submit them for the record.

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[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

NEW LEGISLATION

Question: What is the current status of implementing the new Mine Safety and Health Act?

Answer: Title III of the Amendments Act covers a variety of miscellaneous items involving the transfer of function from the Department of Interior to the Department of Labor. These items have all been completed and the Mine Safety and Health Administration is now an integral part of the Department of Labor.

In the regulatory area, all of the regulations, e.g., those governing civil penalties and petitions for modification of safety standards, which were necessary for effective implementation of the Act have been issued, except for those which govern the identification of independent contractors as mine operators. A draft of these regulations was made available to the public for comment on October 23, 1978, and, after a review of all comments, they will be proposed in early April. In accordance with Section 115 of the Act, regulations setting forth safety and health training requirements for miners were published on October 13, 1978, and we are now in the process of reviewing some 22,000 training plans. The Act mandated a conversion of metal and nonmetal advisory standards to mandatory standards. We are now in the process of reviewing all comments which were received in response to our advisory standards proposal, and expect that final mandatory standards will be published in April.

Under the Act, we are also required to publish standards covering mine rescue teams, surface mine construction work and training for construction workers. Mine rescue team standards have been proposed, and we are in the process of developing a pre-proposal draft for construction and construction training. Consistent with the President's efforts to curb inflation and to simplify and/or eliminate unnecessary regulations, we will soon begin a review of all existing standards and regulations to determine their continued effectiveness, relevancy, and necessity.

With the funds and positions previously received, we have hired more than 475 inspection and staff personnel.

Question: What problems in implementing the new Mine Safety and Health Act of 1977 have you found which make it difficult for you to carry out your program?

Answer: I think it is safe to say that we have successfully implemented most provisions of the Act without any major difficulties. Although we are still in the process of working on some major new standards required by the Act, we anticipate no problems in this area. We have been and will continue to work very closely with all affected groups as we proceed with the development of new standards and programs.

As I indicated previously, we were able to hire the approximately 325 additional inspection personnel authorized for the metal and nonmetal program by the end of FY 1978. These individuals are now undergoing an extensive period of training and should be authorized to conduct inspections on their own by the end of this fiscal year. The full integration of these inspectors to our staff plus the resources requested for fiscal year 1980 will enable us to conduct more metal and nonmetal inspections and probably meet the mandatory four underground and two surface inspections annually.

GRAVEL PIT OPERATIONS

Question: Many county road departments and small gravel pit operators appear to feel that new safety and training regulations require excessive paperwork and will cost so much that many mines will be forced out of business. How much do you estimate compliance will cost the sand and gravel industry?

Answer: At the outset I would like to note that mining studies indicate that the first week, month or year of employment are roughly twice as hazardous as the second week, month or year. For sand and gravel in 1978, 8 of the 25 deaths happened to miners with six months experience on the job. Over half of the miners killed in sand and gravel in 1978, 14 of 25, had 2 years or less experience on the job. The training provisions of the 1977 Act and our regulations implementing them were designed to improve safety and health training in the mining industry so that the number of fatalities and injuries, particularly to inexperienced miners, would be reduced.

We do not believe that the training regulations require excessive paperwork. The regulations require the submission by each operator of a written training plan and require the operator to certify on a form supplied by MSHA that each miner has received the required training. These reporting and recordkeeping requirements are specifically mandated by Section 115 (a) and (c) respectively.

An assessment of the economic impact of the training regulations was done as part of the standards promulgation process. We estimate compliance with the new training regulations will cost the sand and gravel industry about $29,500,000 annually for approximately 120,000 sand and gravel miners.

This estimate is based on an average daily cost of training of $140 per miner which includes not only the miner's wages, meals, transportation and lodging where appropriate, but also a proportionate share of the cost of the training, facilitation materials, and instructor wages. The estimate is also based on the assumption that there will be a 30% annual employee turnover and that 20% of all miners will require new task training. The cost of obtaining approved instructors is also included and is based on receiving formal instructor training from MSHA, which most sand and gravel operators will not need to do.

Question: Why is it necessary for truck drivers or loader operators to take a mining training course?

Answer: Section 115 of the Act requires the operator to provide miners at each mine with a health and safety training program approved by the Secretary. The term "miner" is broadly defined in Section 3(g) of the Act to mean "any individual working in a coal or other mine."

Under the regulations the training program required by Section 115 is to be set forth in the form of a written training plan. The plan is designed to ensure that all miners working at the mine are trained to the extent necessary so that they pose no hazard to themselves or to others through lack of safety and health training. The type of training each miner receives will depend on an analysis of the health and safety hazards each encounters at the mine. This hazard analysis is both a logical and fair method for determining what training is applicable to each miner and allows MSHA the flexibility to apply the training requirements in a reasonable manner.

It should be noted that only new inexperienced miners are required to take the full 24 hours of training mandated by the statute for surface miners. All other miners need only take 8 hours of annual refresher training, except those who change employers or who are assigned new tasks.

As for truck drivers and loader operators, in the performance of their duties they are exposed to a variety of hazards such as: high banks; water and poor lighting; fires; electrical hazards; mechanical and equipment failures; explosives or blasting in the area; various emergency situations which require immediate knowledge of what to do and how to do it; multi-traffic patterns and specific mine road driving rules; and exposure to dust and noise.

The required training for truck drivers and loader operators should be oriented toward recognition of such hazards and the procedures to follow in avoiding them. These employees are not required to take training on how to be a miner. In fact, depending on the situation and the driver's purpose at the mine, no training may be required. For example, if the driver comes onto mine property to pick up mined material and does not leave his vehicle no training would be required since he would not be exposed to any hazards peculiar to the mine property.

Question: Are not most of these regulations pertaining to gravel pits already covered by other Federal or state agency guidelines?

Answer: MSHA is the only federal agency responsible for the safety and health of workers engaged in mining, including the mining of sand and gravel. Several states have their own safety and health laws which cover sand and gravel operations. However, to the best of my knowledge, no state requires health and safety training for miners employed in the sand and gravel industry.

Question: What flexibility exists for exempting small gravel pit operations from coverage under the regulations or granting exceptions?

Answer: The Mine Act does not authorize MSHA to exempt any operation from the training provisions of the Act or our ensuing regulations. However, as we stated in the preamble to the regulations, MSHA has been and will continue to make every effort to be flexible in carrying out its responsibilities with respect to training in order to be as responsive as possible to the needs and circumstances of the various segments of the mining community and of individual operators. For example, as a result of comments received on our proposal from the industry, particularly small sand and gravel operators, we changed our regulations so that MSHA may permit, upon request, new surface miners to receive up to 16 hours of training (of the 24 required by statute) within 60 days after assignment of work duties provided that at least 8 hours of training are given prior to the start of work duties.

Question: What is the safety record of gravel pit operations compared to other types of mining?

Answer: Contrary to assertions by the industry, our statistical data indicates that sand and gravel operations are not less hazardous than the rest of the metal and nonmetal mining industry. The fatality and injury statistics for sand and gravel are outlined in the following paragraphs. However, in making statistical comparison it must be noted that beginning with 1978, MSHA adopted the incidence rate per 200,000 employee hours worked reporting system to conform with other industries' statistical data. To compare the fatal incidence rate for 1978 with the fatal rate used in prior year, the fatal incidence rate must be multiplied by 5 to get the fatality rate per million employee hours worked. The non-fatal days lost incidence rate for 1978 is not comparable to prior years disability injury frequency rate. In addition, severity measures for 1978 lost work day injuries will not be comparable to prior years disabling injury severity rates.

Number of Fatalities

-Sand and gravel operations accounted for 25 of the 136 metal and nonmetal mining fatalities in 1978 or approximately 18%. Thus far in 1979, 5 of the 16 miners killed in metal and nonmetal mines were in the sand and gravel industry.

Number of Fatalities Per Mine Size

-In 1978, 23 of the 25 deaths in the sand and gravel industry occurred at mines employing fewer than 35 employees.

The Fatality Rate (Deaths Per Million Workhours)

-Since 1974, the sand and gravel fatality rate has been consistently higher than the national rate of all metal and nonmetal mines. Although preliminary data for 1978 show a slight decrease from 1977 (0.40 vs. 0.43), the rate is still significantly higher than the 1978 national rate of 0.30.

Disabling Injuries
-Sand and gravel's disabling injury frequency rate has been below the national metal and nonmetal rate since 1974.
Severity of Injuries
-The injury severity rate is an indicator of the seriousness of injuries as measured by time lost from the job.
-From 1974 through 1977 the sand and gravel industry's injury-severity rate has been consistently higher than the national metal and nonmetal rate. In 1977, the rate for sand and gravel was 3340 as compared with the national rate of 3008.

STAY OF MINE TRAINING REGULATIONS

Question: Is consideration being given to staying the March 12, 1979 deadline for submission of training plans for surface mines?

Answer: On November 30, 1978, a Petition for Stay and Reconsideration of Training Regulations was sent to Secretary Marshall from attorneys representing numerous sand and gravel and stone operators. The Petition was based primarily on a recapitulation of portions of the rulemaking record, namely, comments made by certain of the petitioners during rulemaking. The Petition did not bring to the Department's attention new information which had not been considered already in promulgating the training regulations. Each issue raised by the petitioner was adequately addressed in the preamble to the final rules (Health and Safety Training and Retraining of Miner, 30 CFR Part 48, 43 FR 4754). Thus, on December 29, 1978 the request was denied.

In addition, a petition for judicial review of the regulations was filed by the National Industrial Sand Association and other members of the sand and gravel industry in the Third Circuit Court of Appeals on November 8, 1978. The Third Circuit considered a motion for stay pending the outcome of the litigation, and that court refused to grant the stay.

Question: More specifically, are you considering a stay of the requirement that mine operators train or prepare training plans for non-employees and persons not involved in the extraction process?

Answer: This item was specifically addressed in our December 29, 1978 denial of the previously mentioned Petition for Stay and Reconsideration of Certain Regulations. The training regulations promulgated on October 13, 1978, are authorized under the provisions of sections 115 and 101 of the Act. These two sections grant broad discretion to the Secretary of Labor to promulgate health and safety training regulations for miners. We do not believe that the training regulations exceed this rulemaking authorization, nor do we believe that the regulations are inconsistent with the intent of Congress. Section 115 requires the operator to provide miners at each mine with a health and safety training program approved by the Secretary. The term "miner" is broadly defined in section 3(g) of the Act to mean "any individual working in a coal or other mine."

Under the regulations, the training program required by section 115 of the Act is to be set forth in the form of a written training plan. The plan is designed to ensure that all miners working at the mine are trained to the extent necessary so that they pose no hazard to themselves or to others at the mine through lack of safety and health training. It is incumbent upon the operator to ensure that all miners working at the mine are trained in accordance with that mine's training program. Again, it must be emphasized that nothing in the Act removes from the operator the primary responsibility for the health and safety of all miners on mine property. The operator has control not only over his own employees, but either directly or indirectly over those with whom he contracts to perform work on mine property. The operator remains ultimately responsible for, and is the beneficiary of, all work done at the mine. Moreover, in the specific area of training, the operator is in the best position to assure that all miners working at his mine receive systematic training consistent with the health and safety needs and conditions existing at the mine. Accordingly, except with respect to employees of those independent contractors that may be identified as operators under rules currently being developed, mine operators will be primarily responsible for ensuring that persons working on mine property are trained. Until the independent contractor identification regulations are finalized, mine operators remain responsible for ensuring that miners, except those who are engaged in construction or shaft and slope sinking, are trained.

We realize the potential impact this requirement could have on mine operators and have therefore required the training program to be responsive to the training needs of different categories of miners within the broad definition of the term "miner." The type of training each miner receives will depend on an analysis of the health and safety hazards each encounters at the mine.

This hazard analysis is both a logical and fair method for determining what training is applicable to each miner. It allows MSHA the flexibility to apply the training requirements in a reasonable manner. This comports with the concerns of Congress over the extent of training required, expressed in the Senate Committee Report as follows:

> A rule of reason is expected consistent with the conferees' intention that all miners have sufficient knowledge and skills, whether through experience or through formal training to understand and cope with the hazards of this most dangerous occupation.
> (S. Rep. No. 95-461, 95th Cong., 1st Sess. 62 (1977))

This exercise of flexibility by MSHA greatly reduces the impact on operators who are responsible for ensuring that all miners receive training. For example, persons employed by customers to pick up mined material would generally have such limited exposure to mining hazards as to require no training at all. Service and maintenance contractors coming onto mine property will, by the limited nature of their hazard exposure, receive only hazard-type

training which could consist of brief oral or written instruction on hazard avoidance provided by the operator. Thus, a contract tire maintenance person going onto mine property to change tires for a few hours a day can reasonably be given "hazard-type" training to satisfy his training requitements. But a contract dozer operator extracting minerals is generally fully exposed to the mining hazard. If untrained, he poses a considerable potential hazard to himself and others. By application of the hazard analysis approach, this miner would receive the full range of training.

As to training requirements for specific individuals working at the mine, we encourage petitioners to contact appropriate MSHA Training Center Chiefs who are supplying training guidelines, materials and models as they are developed by our Office of Education and Training.

MINER TRAINING

Question: How is the training program for miners being carried out?

Answer: First, I want to emphasize that MSHA is applying a rule of reason in implementing the new training regulations. The training regulations are flexible in allowing mine operators to conduct their own training programs or to participate in MSHA approved programs conducted by state agencies, associations of mine operators, miner's representatives, other mine operators, private associations, or educational institutions. Moreover, a substantial portion of the $6,000,000 appropriated for the state grants program has been allocated to states to train miners and instructors through the state agency responsible for mine health and safety. These agencies generally implement the training through their vocational education programs and state colleges and universitites. Any mine operator may participate in these training programs.

Our training personnel have held over 700 informational meetings on the regulations for operators throughout the country. In addition, we have developed model training plans tailored to specific segments of the mining industry which are available for use by operators.

As part of its regular programs over the past several years, our education and training office had established a program to train instructors in health and safety training for the various jobs in mining. This same program is being used to conduct instructor training programs to provide industry with competent personnel to develop and carry out the training plans required by the regulations.

Finally, I would like to point out that since publication of the final rules we have also set forth MSHA policy explaining further comprehensive and hazard training and to whom it applies. In response to questions raised by the National Limestone Institute we stated that persons coming onto mine sites to pick up mined materials who do not leave their vehicles will not be subject to our training regulations. Further, as a result of inquiries from the American Mining Congress we indicated that contract service

and maintenance workers who are on mine property for 5 consecutive days or less would not be required to have comprehensive training, but would need only hazard training.

STANDARDS

Question: What is the current status of your new standards promulgation process?

Answer: MSHA has published the following sets of regulations and standards since the Act became effective:

Part 40--Identification of miners' representatives
Part 41--Legal identity reporting
Part 43--Hazardous conditions complaints (S103(g))
Part 44--Procedures for variances
Part 100--Penalties
Part 48--Training of miners
Part 75.1714--Self-contained self-rescuers in underground coal mines
Part 70.505--Use of personal noise dosimeters in underground coal mines
Parts 55, 56, 57--Lowering of asbestos standard and storage of toxic substances in metal and nonmetal mines

In addition, MSHA has proposed rules as follows:

Part 46--State grants
Part 49--Mine rescue teams
Part 55, 56, 57--Conversion of advisory standards to mandatory standards
Part 55, 56, 57--Prohibiting use of kelly bar loading of explosives

Question: What new standards do you anticipate for next year for metal and nonmetal mines--the biggest area in which tough enforceable standards were lacking?

Answer: There are four major standards required for which rulemaking activities either have begun or will begin shortly. These are applicable to both coal and metal nonmetal mines. First, on January 5, 1979, pursuant to section 115(e) of the Mine Act, proposed rules were published in the Federal Register which require the availability of Mine Rescue Teams at underground mines. Interested persons were given until March 6 to comment on these proposed rules, and after a review of the comments, public hearings will be held with the final rule being published sometime late in 1979. A second project involves the development of health and safety standards applicable to mine construction activity on the surface, which is required by section 101(a)(8) of the Act. Because we believe that hazards related to construction are the same whether or not the work is done on mine property, we have used OSHA's construction standards as the basis for our pre-proposal draft. After review of this draft is completed, we will circulate it to interested labor and industry groups for comment. These standards will then be proposed for comment in the Federal Register which will be followed by a public hearing, and we anticipate that the final rule will be published sometime

early in 1980. The third set of regulations relate to safety and health training for construction workers, required by section 115(a) of the Mine Act. We are now in the process of meeting with affected labor and industry groups to elicit their input, and, after development of the draft is completed, we will circulate it to affected parties prior to proposal. Formal rulemaking will then follow, with the final rule being published sometime early in 1980. Finally, sections 101(a) (6) and (a) (7) of the Mine Act require that by May 1979, NIOSH is to provide MSHA with a comprehensive list of toxic substances and harmful physical agents used or found in mines in potentially toxic or harmful concentrations. We are working very closely with NIOSH to develop common priorities and a schedule which NIOSH will follow in submitting criteria documents for these substances and physical agents to us. We anticipate that formal rulemaking on this project will not begin until 1980.

Safety and health standards specifically applicable to metal nonmetal mines which will undergo rulemaking in 1979 and 1980 include:

(1) Standards which would prohibit the loading of explosives into blastholes through hollow drill steel or other devices which could be withdrawn from the holes after loading. These standards have been proposed and a public hearing will probably be held in the Spring of 1979.

(2) Standards which will contain additional requirements for construction and maintenance of impoundments and waste piles. It is anticipated that a draft of these standards will be available for circulation to interested parties by June 1979. After proposed rulemaking, and a public hearing, final standards should be published in 1980.

(3) Requirements to provide self-contained (oxygen generating) self-rescue devices to underground metal nonmetal miners. These standards should be proposed by July 1979. It is anticipated that final rulemaking will occur by mid-1980.

(4) Regulations which relate to the exposure of radiation during the milling of uranium. We anticipate having a draft of these standards available for public circulation by late 1979. Formal rulemaking will begin in 1980.

In addition to the above standards, we are now in the process of finalizing our proposal to convert certain metal nonmetal advisory standards to mandatory standards which is required under section 301 of the Mine Act. Final mandatory standards should be published within the next month. In addition, final standards which regulate a miner's exposure to radon daughters and govern the use of explosives in metal nonmetal mines should be published within the next month.

Question: What kind of cost benefit studies are you preparing on new standards?

Answer: In developing new standards, in addition to procedures contained in the Act, we have followed the procedures set forth in Executive Order 12044 on Improving Government Regulations and the Department of Labor's (DOL's) guidelines which implement the Executive Order. The Executive Order and DOL's guidelines generally require the preparation of a regulatory analysis, including an estimate of the economic consequences of major acceptable alternative actions, for all major regulations. To date, we have been able to prepare the economic analyses of our new standards on an in-house basis, using all available information. However, as we proceed with the development of complex health standards, we may have to utilize outside contract personnel to assist us with our economic studies. We have prepared analyses of the cost of our training regulations, mine rescue team regulations, Kelly-bar regulations, and our regulations which require self-contained (oxygen-generating) devices for underground coal mines.

INSPECTOR TRAINING

Question: How is new training of inspectors for both coal and metal and nonmetal mines being carried out?

Answer: Training for new mine inspectors consists of about three months of formal classroom training at the Federal Mine Safety and Health Academy in Beckley, West Virginia, as well as an extended period of on-the-job training (OJT) during the first year of employment. The actual training program is generally carried out in the following manner.

1. After a new inspector is hired, the inspector is assigned to an experienced inspector who is responsible for the OJT phase of training. During the initial period of OJT (from one to several weeks) the employee travels with one or more journeyman inspectors in order for him to observe as many types of inspection and investigation activities as possible.

2. After the initial phase of OJT, the new inspector is sent to the Academy for the first of four sessions of formal classroom training (approximately three weeks per session). The first few days of this first session are devoted to a general orientation in the areas of employee rights and responsibilities, employee relations, organizational structure, etc. Upon completion of this two to three day orientation, the remainder of the session is devoted to giving the new inspector a complete background review of mine inspection history and mission, the Federal Mine Safety and Health Act of 1977, and the role of the inspector in enforcement of the Act. Courses including such areas as professionalism, investigative and fact finding techniques, and report writing are also initiated during this session.

3. The initial period of formal training is followed by another period of OJT at the employee's duty station. This period is used to review and utilize what was learned during the formal training and to continue to familiarize the employee with inspection and investigation activities.

4. Upon completion of the above OJT period, the new inspector returns to the Academy for an intensive session devoted to the technical areas of mine inspection such as roof and rib control, ventilation, hoisting, gas detection, etc. This session and the two sessions that will follow, build upon the inspectors experiences during the intervening OJT periods. This highly technical training is followed with additional training in the writing of citations and orders, report writing, and other areas related to the administrative aspects of mine inspector activity.

Satisfactory completion of each formalized training period leads to a gradual increase in the new inspector's OJT responsibilities. As the experience of the inspector increases, senior inspection personnel will monitor and evaluate his/her performance. When the new inspector is deemed competent to inspect mines independently, he/she will become an authorized representative of the Secretary. This generally will take place just prior to the completion of the first year of employment.

SUBCOMMITTEE RECESS

Senator EAGLETON. The subcommittee will recess until 2 p.m., when we will hear from the Employment Standards Administration, Bureau of Labor Statistics, and departmental management.

Thank you.

[Whereupon, at 12:15 p.m., Thursday, February 22, the subcommittee was recessed, to reconvene at 2 p.m., this same day.]

(AFTERNOON SESSION, 2 P.M., THURSDAY, FEBRUARY 22, 1979)

BUREAU OF LABOR STATISTICS

STATEMENT OF DR. JANET NORWOOD, ACTING COMMISSIONER

Senator EAGLETON. Good afternoon.

The subcommittee will again be in session. At this time we will hear from Dr. Janet Norwood, Acting Commissioner of the Bureau of Labor Statistics.

Dr. Norwood.

Dr. NORWOOD. Thank you, Senator.

The budget for the Bureau of Labor Statistics for 1980 is $102 million, which is $5 million more than in fiscal year 1979.

The dollar increase represents essentially mandatory costs, with somewhat over a million and a half-dollar increase in the costs that the Census Bureau charges us for contract work which they do for us.

Other mandatory costs are largely related to salary and benefits that are paid to the Bureau of Labor Statistics staff, and we have roughly $2 million in program increases, which is matched by about $2 million in program decreases.

In a period of inflation or of any other kind of economic difficulty, we in the Bureau of Labor Statistics find that the demand for data, and for analysis of those data go up very markedly.

Our budget proposal has attempted to take account of the very critical nature of the inflationary problem facing us today.

We have asked for $1.9 million and 60 positions to continue the program for revision of the producer price index, which would permit us to add about 40 additional industries in mining and manufacturing, as well as to continue the basic program for revising and improving the full structure of the producer price index program.

In addition, we are asking for $270,000 and 10 positions for the international price program, which would increase coverage for both export prices and import prices in an area that is extremely important and which for both the purposes of economic analysis and trade policy, and for deflation of the gross national product, there is great need for export-import prices.

In accordance with our attempt always to improve the efficiency of the Bureau, and to carry out the plans for increased efficiency, and, I think, the needs of the time for concern about the rising cost of Government, we have attempted to match these increases with decreases in our program.

Basically, the decreases referred to five general areas. Somewhere around $500,000 would involve some elimination and reduction in our occupational outlook program, and in the national program for a tabulation of data on the calculation of the unemployed. Some shifts and decreases in our wage program amount to

$1.2 million: the elimination of the biennial survey on employer expenditures for employee compensation, which we hope to replace with some information we are collecting on another program, and a reduction in some of the industrial relations information that we put out.

We are also proposing small reductions in the construction labor materials requirements studies—about $100,000—and the elimination of a chartbook on productivity, prices, and wages—saving $25,000—as well as about $250,000 in reductions in executive direction.

Senator EAGLETON. Thank you very much.

OCCUPATIONAL INJURY AND ILLNESS DATA

In this morning's session we had, amongst other witnesses, Dr. Bingham, and in the course of her testimony she indicated that she thought that the BLS report on occupational injuries was misleading as it related to the high level of injuries and illnesses.

Have you had a chance to talk about this with Dr. Bingham?

Dr. NORWOOD. Yes. We do have fairly constant communication. I think that there are a number of problems in evaluating the data that are produced.

One of the important things that I think we've all got to remember is that the recordkeeping system itself provides for greater sensitivity to occupational illnesses and particularly injuries, which are easier to identify, and frequently the fact that there is a program out there means that both employers and employees are paying much more attention to them, and this attention improves reporting.

So I think that is one of the reasons. I think that another reason, and I believe Dr. Bingham probably referred to this, was that we do not believe that we have a very good measure of occupational illness. We do, however, have a good measure of work injuries.

But, you know, the Bureau of Labor Statistics is really very good at collecting information that can be easily defined; that is, the event for which the data are being collected. The problem with occupational illnesses, of course, is that we must distinguish between the incidence of illness versus the prevalence of illness.

There is a long lead time, essentially, in the development of illness. We are undertaking a number of pilot studies to improve our collection efforts.

We have done a good deal of work in this area in cooperation with the people in the Department of Labor and Dr. Bingham's administration.

But it is certainly true that our measures of occupational illnesses are not yet anywhere near what we would like them to be.

OCCUPATIONAL DATA FOR SCHOOL DISTRICTS

Senator EAGLETON. It was recently announced that the BLS State security employment agencies and the National Center for Educational Statistics have agreed to cooperate on a survey to collect numbers of employees in local school districts. The survey will enable the Department of Labor and HEW to develop up-to-

date statistics and projections of occupational categories in local schools.

Now, some questions:

How will the data from this survey be used?

Dr. NORWOOD. The data from the survey are part of our overall occupational employment statistics program, which provides rather detailed information on employment by occupation in various industries of the country.

They are then related to other work that we do in the economic growth area, to develop long-range projections, to 1990 at the moment, and through an industry occupational matrix we attempt to project forward to 1990 to see what kinds of occupational demand there will be.

These projections, I'm sure you realize, Senator, are, of course, subject to error because they are based upon assumptions, and we don't have a crystal ball that tells us which assumptions to use.

On the other hand, it is important to have information for a long-range plan, and we think that we do, under the circumstances, a pretty good job—but people must understand that the data have to be used with some care.

Senator EAGLETON. Do BLS and NCES have other agreements for carrying out surveys to obtain data that is needed by both departments?

Dr. NORWOOD. Yes, sir. We have, as a matter of fact, two BLS employees who are currently working with the National Occupational Information Coordinating Committee. We participate very closely with the new group that was established by law.

We are very much involved, because we believe that it is very important to have adequate cooperation between the educational people and the employment security people.

INTERAGENCY STATISTICAL COOPERATION

Senator EAGLETON. Since we are on the subject of joint ventures, joint cooperation, amongst other reasons to avoid duplication, unnecessary repetition, et cetera, since almost every agency of Government collects some form of statistics, are you working, or are there people working in the Government to try to have more cooperative endeavors, more sharing, and thus avoid duplication?

As you know, Senators receive lots of mail from their constituents and lots of complaints.

Although maybe it isn't the No. 1 item on my complaint list at any one time, it is a constant item in my top 10, people writing in and saying, "I'm supplying statistics to the Census people, this department, that department, can't you guys get your act together?"

We hear a lot of complaints like that. Maybe some of them are exaggerated at times, but maybe some are on the mark.

Who should try to pool it all together, other than the President?

Dr. NORWOOD. There is a mechanism for doing that which involves the Office of Federal Statistical Policy, which is now located in the Department of Commerce.

There is also a statistical reorganization program that is underway now at OMB looking at exactly this question.

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In terms of the Bureau of Labor Statistics, we are, of course, very much aware of the need to reduce the burden on respondents. After all, except for the occupational safety and health program, all of our survey work is voluntary. That is, it is based upon voluntary cooperation of employers and individuals.

We have attempted, ourselves, to work out very close relationships, in particular, with the Census Bureau, which does a great deal of survey work for us. We have attempted to combine, wherever possible, the information that we get.

JOB VACANCY STATISTICS

Senator EAGLETON. Why has the Department of Labor been unsuccessful in establishing job vacancy statistics?

Dr. NORWOOD. I don't think, Senator, that it is quite correct to say that we have been unsuccessful in establishing job vacancy statistics.

We are working on the development of a survey program.

There is a long leadtime in the development of any large survey program, particularly if, as you just indicated, we want to be careful about the burden on respondents.

So what we have done is try to look at this, as we do with all of our surveys, in terms of what data are needed, how are they going to be used? We've had a big conference of various kinds of users, including congressional staff, in order to try to determine the direction the program should take.

Second, we have worked with our advisory committees to try to find out from them, particularly the business advisory committee, how job vacancy data can be interpreted.

Third, we have reviewed with other countries, the Australians, the Canadians, and the European community, the work that they have done in the job vacancy field, because we have found that they have run into a lot of difficulty in the development.

In fact, the Canadians are going to be stopping a survey that they have developed.

We have several to place this issue on the agenda of the working employment and unemployment statistics of the OECD, and next month this will be one of the issues that will be discussed.

In addition, we have arranged for contracts with four States to test approaches to the development of the job vacancy program. In particular, to find out whether the records exist, in order to collect the data, how to define a job vacancy so that it can be collected and used profitably, and also how to combine the data with some of our other programs, in particular, the labor turnover program, because apparently what is really wanted is both labor turnover and job vacancy information by occupation.

We have several contracts underway for pilot work. In addition, we are in the process of arranging a contract with the conference board in New York, which puts out a help wanted index, to look at their statistical series to see whether it is possible to make it useful in vacancy analysis.

So I think we are doing a number of things in the job vacancy area.

We feel that this kind of work really needs to be done in a prudent manner, if we are going to have a successful large-scale survey.

Senator EAGLETON. Are there alternatives, different ways of approaching the job vacancy situation, and do they have advantages, and I guess maybe disadvantages as well?

Dr. NORWOOD. Yes, there are. In fact, we have supplied the committee staff with a paper of the various approaches that we have considered.

Senator EAGLETON. Is it an appropriate length to put in the record? Is it too long?

Dr. NORWOOD. I think it is too long. We could provide you with a summary for the record, if you would like.

Senator EAGLETON. It might be useful, if you could sort of abstract it.

[The statement follows:]

STATEMENT OF DR. JANET NORWOOD

During Fiscal 1978 the Bureau conducted research to identify options for implementing a job vacancy statistics data collection program. Four alternatives were deemed feasible: 1) Linking job vacancy data collection with the Occupational Employment Statistics (OES) Survey, 2) Linking job vacancy data collection with the Employment, Hours and Earnings program (BLS-790) through which data are collected on wage and salary worker employment, earnings, and hours of work by industry, 3) Establishing an independent survey, and 4) Linking job vacancy data collection with the Labor Turnover Survey.

Linking Job Vacancies with the OES Survey

The OES survey is a cooperative Federal-State program that collects information on employment by occupation for all nonagricultural employment at the two and three digit Standard Industrial Classification industry level. Forty-four States and the District of Columbia currently cooperate in the program. For the remaining States data are collected directly by BLS Washington. Estimates are produced for the Nation, forty-four cooperating States and D.C. and a limited number of sub-State areas in these States. The survey is conducted over a 3-year cycle with manufacturing industries one year, regulated and trade industries in another, and the remaining nonmanufacturing industries in the third year.

Several benefits could be derived from linking job vacancy collection to the OES survey including: use of the existing probability sample design of the OES survey; use of the OES structured questionnaire which provides occupational titles and descriptions to respondents (thereby eliminating the inaccuracies associated with coding) which could be adapted easily by simply adding a job vacancy column; and production of considerable industrial, occupational, and geographic detail on job vacancies. However as presently constructed all industry estimates could not be produced annually because of the 3-year cycle of the OES survey, and data would not be available until one year after the reference date.

Linking Job Vacancy Data with the "790" Program

The BLS-790 program produces a wide range of statistical series related to employment, hours, and earnings. It is a cooperative Federal-State survey that covers virtually all nonagricultural employment on a monthly basis. The survey employs a shuttle schedule mailed to a panel of about 160,000 responding establishments.

Advantages of this alternative include: start up cost would be low relative to other alternatives having the same size sample; considerable industrial and geographic detail on job vacancies could be produced; response rates could potentially be quite high because of the established working relationships; and data on vacancies could be produced soon after a decision to link the programs was made.

As an economic indicator, however, the timeliness of the 790 data is critical to its usefulness for policy purposes. By linking it to job vacancy data collection, possible delays could result from the increased processing loads experienced by both respondents and State agencies, and 790 response rates may decline as a result of an additional reporting burden. In addition, because of timing and response burden constraints, it is not likely that a job vacancy survey associated with the BLS-790 program could achieve the flexibility in data collection desired by many.

Establishing an Independent Survey

A third alternative for collecting data on job vacancies is to conduct a survey independent of other Bureau data collection efforts. A number of advantages exist with this alternative, many of them stemming from the flexibility that is possible with an independent survey, including: the desired timing could be established independently; the sample size could be adjusted on an incremental process over a period of years; a survey questionnaire could be designed specifically for job vacancies; industries that introduce special problems for job vacancy collection could be handled easily; and the program would not have a negative effect on any other collection program.

Several disadvantages also exist if an independent survey is to be used. Most of these relate to the process of initiating a new survey which is time consuming and expensive. They include: the need to set up and train new staff, the need to develop rapport with new respondents, the potential difficulty in maintaining response from small firms that repeatedly have zero vacancies and therefore have nothing to report, and the large increase in federal employment needed to operate a survey solely by BLS.

Linking Job Vacancies with the Labor Turnover Survey

The fourth alternative is to combine job vacancy data collection with data collected on labor turnover, which is now conducted through a cooperative Federal-State program in 47 States and the District of Columbia (a balance-of-Nation survey is conducted in the remaining 3 States by BLS to produce National estimates). Detailed data on accessions and separations are produced monthly for manufacturing, mining, and telecommunications industries at the National, State, and sub-State level using a sample of about 40,000 establishments.

This option has great appeal because of the logical analytical connection between data on job openings and labor turnover. Other advantages include the likelihood that records for reporting job vacancies would be available in the same offices that are reporting on labor turnover, and our experience with the Job Openings and Labor Turnover Survey (JOLTS) which operated from 1969-73 and showed that data could be collected in this manner.

Disadvantages of the approach include the possibility that combining job vacancy collection with the labor turnover survey could potentially have some negative effects on the timing and response rates of the existing labor turnover survey, and the need to expand the Labor Turnover program since it only covers mining, manufacturing and telecommunications at present.

Conclusion

An analysis of the advantages and disadvantages of these alternatives has lead us to pursue the approach of combining job vacancy collection with the labor turnover survey. Pilot tests are now being conducted in 4 States - Massachusetts, Texas, Florida, and Utah.

REPUTATION OF THE BUREAU

Well, Doctor, I know you have some important work you've got to do, and we appreciate having you here. I can say that I guess there is no department of the Federal Government that has the continuing good reputation as the Bureau of Labor Statistics. It has always been viewed as a very professional operation, with both Democratic and Republican administrations, and I think you carry on that particular obligation very well.

Delighted to have you here.

There will be other questions that we will submit to you in writing, so you can give us written response.

Dr. NORWOOD. Fine.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

UNDEREMPLOYMENT INDEX

Question: It has been stated that the unemployment rate is not the relevant basis for allocating funds geared to relieving chronic structural economic problems. Instead, an underemployment index has been suggested. Would you discuss the problems associated with developing such an index at the local area level?

Answer: Underemployment (hardship) indexes cannot be developed for local areas until the conceptual and technical problems that now prevent the development of such an index at the national level have been resolved. As the NCEUS report will show, these problems are complex; unanimity of opinion about what such indexes should measure and how they could be developed is still lacking. But even if these issues of concept and methodology were to be resolved right away--not a likely prospect--the problems of data availability at local levels present nearly insurmountable problems. At the present time, the Bureau is developing unemployment rates for 6,100 local areas, but they are subject to persistent criticism because the data are not of better quality. To add income to the labor force data at the local level would escalate both cost and quality problems way beyond what we are presently facing in the LAUS program. Hence the Bureau is not sanguine about the prospect of producing hardship measures that would be an improvement over present data used in allocation process.

COMMISSION ON EMPLOYMENT STATISTICS

Question: How closely has BLS been working with the Commission?

Answer: The Bureau of Labor Statistics has been actively assisting the National Commission in a variety of ways consistent with insuring the impartiality of the Commission's examination of the procedures, concepts, and methodology involved in employment and unemployment statistics. The Commissioner of Labor Statistics, among other Administration officials and members of Congress, serves as a statutory advisor to the Commission. The Commissioner and other Bureau representatives have attended the meetings of the Commission and have provided advice on matters under discussion. Formal liaison with the Commission's members and staff has been maintained over the life of the Commission, and has assured Bureau of Labor Statistics responsiveness to the Commission's needs for data and technical advice.

The Bureau of Labor Statistics has done considerable work in support of the Commission. Prior to its inception, the Bureau prepared a series of eighteen major issue papers for the information of the Commission, identifying those issues which were likely to be considered and indicating options which the Commission might wish to consider. The Bureau has provided technical comments on the series of background papers prepared for the Commission by outside experts, and has developed a number of special-purpose data tabulations, some requiring advanced analytical techniques, at the request of the Commission. The Bureau also assisted in developing a special survey, conducted under the sponsorship of the Commission in September-October 1978, to better focus on the status of discouraged workers and other persons not in the labor force. The Bureau's national

staff and regional offices assisted the Commission in making arrangements for its series of formal hearings, conducted in Washington, Atlanta, Chicago, New York, and San Francisco.

Question: Have any of the Commission's reports been examined by BLS to determine if any of their suggestions can be incorporated into current BLS procedures?

Answer: The Bureau has received the preliminary draft of the Commission's final report, issued in January 1979, and is providing the Commission with comments on the technical feasibility of the recommendations in the report. The Bureau will continue to provide advice on technical matters and the feasibility of recommendations when the Commission reconvenes to consider public comment and develop its final report. The BLS has also arranged to begin field testing, in cooperation with the Census Bureau, of some of the Commission's recommendations that will require new questions, procedures, and definitions.

After the Commission's report has been issued, the Bureau will play a major role in the preparation of the Secretary of Labor's report to the Congress on the desirability, feasibility and cost of implementing the recommendations, and the actions taken or planned with respect to their implementation. This interim report is to be submitted to the Congress within six months after the report is released. A final report of the Secretary of Labor to Congress, to be submitted within two years after the release of the Commission's report, will detail actions taken with respect to the recommendations.

QUALITY OF LOCAL EMPLOYMENT DATA

Question: The quality of local area employment and unemployment statistics was termed "often poor" by the chief of the Division of Local Area Unemployment Statistics (Martin Ziegler) in a November 1977 Monthly Labor Review article.

Are these statistics still poor and what efforts are you taking to improve them?

Do you believe that it would be cost-efficient to undertake the collection of state and local labor force data on a monthly basis to achieve the same degree of accuracy as with the national statistics?

Answer: A number of major improvements in the estimating procedures and the unemployment insurance data were introduced in 1978. These resulted in raising the quality of the unemployment estimates for states, metropolitan areas and counties within metropolitan areas. However, for a variety of reasons, we have not been able to significantly improve the estimates for central cities.

The statistics for central cities and small political jurdictions are still very poor. With respect to the central cities, we are expanding the Current Population Survey sample in the 10 largest cities and their suburban counties. For other cities of 25,000 population we have contracted with over 30 States to obtain

unemployment insurance data and are exploring the possibility of expanding our employment series to cover large cities. For smaller jurisdictions, our only realistic hope for improving the data is to wait until the 1980 Census figures become available and to use these figures in the estimating procedures.

The annual cost of monthly labor force surveys for 4200 sample areas would be $2.3 billion. This would provide estimates with a sampling error of 10 percent. It would require a sample costing over $50 billion to achieve the same degree of accuracy as the national statistics. This is obviously not cost effective.

EMPLOYMENT STANDARDS ADMINISTRATION

STATEMENT OF DONALD ELISBURG, ASSISTANT SECRETARY

ACCOMPANIED BY:

C. L. JOHNSON, DEPUTY ADMINISTRATOR, WAGE AND HOUR DIVISION

CHARLES PUGH, DIRECTOR OF THE OFFICE OF PROGRAM, DEVELOPMENT AND ACCOUNTABILITY FOR EMPLOYMENT STANDARDS ADMINISTRATION

LARRY KOWITCH, ACTING DIRECTOR OF THE BUDGET AND FINANCE DIVISION FOR EMPLOYMENT STANDARDS ADMINISTRATION

W. ROUGEAU, DIRECTOR OF THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

RALPH HARTMAN, DIRECTOR OF THE OFFICE OF WORKERS' COMPENSATION PROGRAMS

Senator EAGLETON. All right. We will go back with Mr. Elisburg.

First we will hear Assistant Secretary for Employment Standards, Don Elisburg, presenting his agency's $164,923,000 budget request for fiscal year 1980. Also, we will hear testimony on the $8,218,000 fiscal year 1979 supplemental request for workers' compensation programs.

You have a rather lengthy statement. Perhaps you can briefly summarize your statement before we start with questions.

Mr. Elisburg, do you have your group with you?

Mr. ELISBURG. I do.

Senator EAGLETON. You may proceed.

Mr. ELISBURG. Mr. Chairman, I have a short oral statement.

Before I begin I will briefly introduce my colleagues.

On my far right is Mr. Lamar Johnson, the Deputy Administrator of the Wage and Hour Division.

Immediately to his right is Charles Pugh, who is the Director of the Office of Program, Development and Accountability for Employment Standards Administration.

On my far left is Larry Kowitch, who is the Acting Director of the Budget and Finance Division for ESA.

Next is Mr. Rougeau, Director of the Office of Federal Contract Compliance programs, and on my immediate left is Ralph Hartman, Director of the Office of Workers' Compensation programs.

BUDGET REQUESTS

I have three separate requests that we would like to discuss today. The first of these is the fiscal year 1980 budget request for salaries and expenses for the Employment Standards Administration.

The second is a supplemental appropriation request for salaries and expenses in fiscal year 1979, for the Federal Employees' Compensation program.

The third is the special benefits account out of which we make the benefit payments, primarily, under the Federal Employees' Compensation Act.

SIGNIFICANT CHANGES IN AGENCY

Since we last appeared before this committee, there have been significant changes in the agency resulting from the President's Reorganization Plan No. 1, which included the consolidation of the administration of the Contract Compliance program into the Department and transfers enforcement responsibility for the Age Discrimination in Employment Act and the Equal Pay Act from ESA to the Equal Employment Opportunity Commission, effective July 1, 1979. The 1977 Black Lung Benefit Reform Act also significantly altered the nature of that program.

In addition, there have been changes in the scope of the workloads of the programs administered by this agency which affect the resource levels necessary for this and next fiscal year.

The fiscal year 1979 proposed supplemental requests 207 additional positions, and $8,218,000 over the fiscal year 1979 appropriations level to meet critical needs in the administration of the Federal Employees' Compensation Act.

The fiscal year 1980 request for the salary and expense account provides for 5,233 full-time permanent positions, and $164,923,000.

FEDERAL EMPLOYEES' COMPENSATION ACT

As we have discussed with the committee on previous occasions, our top priority has been to improve the administration of the Federal Employees' Compensation Act. In the last 2 years we have taken a number of steps to provide more effective service to FECA claimants, while assuring that the Government's interest is protected.

You may recall that when this administration came into office we found a situation where the increased work loads generated by the 1974 amendments to the FECA had overwhelmed our capacity to process workloads with available personnel and created a situation where the compensation system either failed to function, or functioned inadequately.

Some additional staff resources were provided in the fiscal 1977 supplemental. However, workloads continued to increase. In mid-1978, the Department, with congressional consent, reprogramed the unused balance of appropriations for the black lung program released by the Black Lung Revenue Act to put an additional 250 new people to work in this critical program. With these resources, we have improved the timeliness and quality of the claims adjudication process. However, while the appropriation expired at the end of fiscal year 1978, workload and operational conditions which warranted the reprograming remain.

ESA is therefore requesting an additional 365 staff years of effort, costing $8,218,000 to continue the 1978 initiative and make further improvements in the administration of the program. The request includes 207 new full-time positions and financing for 25 currently authorized but unfunded positions. At normal lapse rates, this will provide 224 staff years of effort.

The remaining 141 staff years represent the use of temporary personnel.

By midfiscal year 1980, if this request is approved, we expect to be at a point where performance standards can be met and the temporary personnel phased out. Frankly, the alternative to the provision of this supplemental is to see the system overwhelmed once again by the workload.

IMPROVING AND PROTECTING WAGES

I would now like to go to the fiscal 1980 budget.

The request provides 1,758 positions, and $62,221,000 for all programs funded under the budget activity "Improving and Protecting Wages".

The request provides for a decrease of 133 positions, and $2,334,000 below the fiscal 1979 budget for this activity.

We had estimated an approximate 20-percent increase in the number of complaints received alleging violations of the Fair Labor Standards Act in the 18-month period following the 1977 amendments to the act. That increase in complaints did not materialize. As a result, the lower resource levels proposed for fiscal year 1980 will enable ESA to assure that complaint inventories remain stable, and standards of performance are at an acceptable level.

In an effort to eliminate the economic incentives for employers to hire undocumented workers, we will conduct over 13,000 investigations in fiscal 1980. This effort will be taken in conjunction with our regular enforcement effort under the FLSA and the Farm Labor Contract Registration Act.

We will see some improvement in the overall farm labor contractor program, however the compliance picture is still unacceptable. We are continuing to increase our enforcement, as well as undertaking improvements in the administration of our Government contracts employment standards program.

ELIMINATION OF DISCRIMINATION IN EMPLOYMENT

Under the "Elimination of Discrimination in Employment" activity, the fiscal 1980 request totals $50,105,000, and 1,480 positions. The proposal reflects the impact of two major changes. First, Reorganization Plan No. 1 transfers enforcement responsibility for the Age Discrimination in Employment Act and the Equal Pay Act from the Emlpoyment Standards Administration to the Equal Employment Opportunity Commission effective July 1 of this year.

This action reduces the ESA budget by 239 positions, and $1,917,000 in fiscal 1979. These programs are not in ESA's 1980 budget.

Senator EAGLETON. Are those 239 going to go over to EEOC?

Mr. ELISBURG. EEOC will pick up the 239 positions.

Second, the budget reflects the consolidation of enforcement responsibility for the Contract Compliance program authorized under Executive Order No. 11246 from 11 other Federal agencies into the Department of Labor. This action enables ESA to amalgamate the enforcement of the procurement based equal opportunity requirement, including those protections for the handicapped, authorized

by the Rehabilitation Act of 1973, and for certain Veterans authorized by the Vietnam Veterans Assistance Act.

We anticipate that the consolidated organization will make the Contract Compliance Affirmative Action program much more effective in increasing the numbers and upgrading the employment status of minorities, women, handicapped workers, and veterans.

I will now turn to the workers' compensation programs——

FEDERAL CONTRACT COMPLIANCE–JOB COMPETITION

Senator EAGLETON. Let me break in there. I read a very interesting piece in the paper—I'm trying to think whether it was the Washington Post or the New York Times; it was in the last week or so—wherein it says that the battle of the future, insofar as jobs is concerned, is going to be the blacks versus the women, and a showdown is coming, in terms of these two groups competing for a limited number of jobs, and job advancement.

Did anybody else read that piece; and if so, would anybody care to comment on it?

Mr. ROUGEAU. I was interviewed for that piece. I haven't read it. But I think there is a concern, Senator, among people, particularly in a minority business enterprise area, where the definition of minority has tended to include women, and most of those women have tended to be majority females.

Some black minority entrepreneurs have interpreted efforts to bring those disadvantaged elements of society as favoring white females to the detriment of blacks and Hispanic entrepreneurs. There is increased hostility in that area.

In our own program, employment discrimination, we require separate goals for minorities and females, so they are not susceptible to clash with each other for jobs. But obviously, they are all competing for available jobs, as is the case in construction, where we recently established goals for women.

If you have a few positions available, and there are people who are sitting on the bench, then it is very likely that some women will displace some males, minority as well as majority.

I think it is a problem, but it is not a problem that is serious in our area. It is more so in the minority business enterprise area.

SEARS ROEBUCK LAWSUIT

Senator EAGLETON. While we are on this subject, would you care to give us any comment on the much publicized lawsuit recently filed by Sears, Roebuck?

Mr. ROUGEAU. Our lawyers are still reviewing the complaint, which is quite lengthy. I spoke with them today about it. We are trying to coordinate with the Justice Department.

I would say that internally, the people who work in the program feel that on one hand it might be a public relations move on the part of Sears, and on the other, the Sears lawsuit is apparently one of the progeny of Bakke, and we anticipate more lawsuits of this nature to be filed. We take all of them very seriously.

WEBER CASE

Senator EAGLETON. Is there a new *Bakke* case working its way up, in the area of employment?

Mr. ELISBURG. You may be thinking about the *Weber* case.

Senator EAGLETON. I didn't have the name Weber. But it is somewhat similar. Refresh me as to what it is.

Mr. ELISBURG. The *Weber* case involves a question of whether a voluntary affirmative action plan, in this case, one entered into between Kaiser Steel and the Steel Workers Union for identifying minorities for an apprenticeship program, requires prima facie showing of a discriminatory action before the company and the unions, for example, could enter into such agreement.

Senator EAGLETON. Is it down at the U.S. Supreme Court?

Mr. ELISBURG. The case has been accepted by the Court. The Department will be participating in that action.

The Justice Department had intervened into the case when it had been cited at the fifth circuit level.

Senator EAGLETON. That is the case.

DIFFERENCES IN SCOPE BETWEEN OFCCP AND EEOC

Delineate for me, if you will, the scope of your operation in the Labor Department as being separate and distinct from Mrs. Norton's operation in EEOC. Where do you begin and end, and where does she begin and end?

Mr. ROUGEAU. We are entirely procurement based. Only contractors and subcontractors who do business in excess of $10,000 come to us. We have the authority to suspend contracts, to debar from future Government work, and to cancel contracts.

The EEOC tends to focus more on individual relief, except that now under Mrs. Norton's leadership, she's moving into the systemic area.

But that is basically the difference.

Mr. ELISBURG. In addition, Senator, we also have the responsibility for carrying out programs prohibiting discrimination against handicapped or veterans by Government contractors.

So we have additional responsibility which is not covered by EEOC.

CRITERIA OF CONTRACTOR REVIEWS

Senator EAGLETON. With respect to the employment of women and minorities, what criterion will be used for identifying those contractors who have the greatest potential for improving the employment opportunities of minorities and women?

Mr. ROUGEAU. We will focus on growth industries. It is our feeling that if we are dealing with dying industries in the economy, we are not going to have any sizable impact.

There are growth industries which we have identified, and which have been publicized in various media, for example, banking, insurance, coal mining.

Those industries represent industries which, under the fragmented contract compliance program, because of the small number of people who were dedicated by agencies to deal with contract com-

pliance, did not really get the kind of attention they should have gotten from the Government.

For example, the Treasury Department had a maximum of 43 people nationwide to monitor compliance of 15,000 banks. There is just no way they could possibly do it in our lifetime with that size staff.

So, we also know, from some economic projections that have been made, that that industry in particular is a growing industry. It is also an industry which is very severely underrepresented with women and minorities, and we are focusing there to try to find new job opportunities and place minorities and women in those industries.

Basically, the criterion of growth, the criterion of vacancies, and also the criterion of a neglected industry will constitute those criteria that will be used to target those industries.

Senator EAGLETON. Where does contract compliance get involved with banks?

Mr. ROUGEAU. We have determined as a result of banks serving as Federal depositories, that that is a contractual relationship.

DISCUSSION OF DATA NEEDS

Senator EAGLETON. Some compliance agency and contractor officials have complained of problems in setting employment totals because of the absence of precise data on the number of minorities and women available for employment.

What is being done about this?

Mr. ROUGEAU. We will, hopefully, in fiscal year 1980, undertake to refine data which are available to help contractors set goals for minorities and women.

This has been an ongoing problem. Employers have the responsibility to set the goals themselves. But there have often been contests between the Government on one hand, and the employer on the other, as to what constitutes availability for a specific job category.

Let's say you are talking about engineers, minorities and females. Rockwell might say, "We know there are only 300 engineers around the country. We've been to all the college campuses. Those are the only women that are available."

A compliance officer might say, "My figures say there are 550," and there is a battle that ensues there.

We think the program would be well served if the Government could come out with availability figures which employees could rely upon in setting their goals, and end these contests.

Senator EAGLETON. Would you guys do that, and would that have to be assigned over to the Bureau of Labor Statistics?

Mr. ROUGEAU. We would work with them.

Mr. ELISBURG. I was about to say that one of the projects that we have entered into with Dr. Norwood is to see how they can start helping us collect and analyze and evaluate the data that is needed to do this.

It came as something of a surprise to us that in all the years of this program being in existence, no real efforts had been made to

use the BLS data collection system to deal with the problems of minority availability.

Senator EAGLETON. All right, Mr. Elisburg. I interrupted you, somewhere, I guess, on page 6 or so of your statement.

WORKERS' COMPENSATION PROGRAMS

Mr. ELISBURG. I was about to discuss the workers compensation programs.

I have already mentioned the supplemental budget for fiscal year 1979. The fiscal year 1980 request totals 1,696 positions, and $55,393,000.

This represents a decrease of 162 positions and $7,705,000 below fiscal 1979 level. The proposed decrease occurs in the black lung program as a result of the analysis of incoming workloads.

BLACK LUNG PROGRAM

The workload projections presented to Congress at the time of the black lung supplemental budget request for last year were higher than we are now actually experiencing. Current data indicates that we will receive approximately 30,000 fewer requests for review of claims originally denied by the Social Security Administration.

Senator EAGLETON. Why is that? Why would there be 30,000 fewer requests?

Mr. ELISBURG. There are two separate pieces of the black lung program. There are those claims that have been filed directly with the Department of Labor. They go under the magic name of part C, having to do with the section of the statute which authorized the Department's involvement beginning in 1974.

Prior to 1973, claims were filed with and processed by the Social Security Administration. Those are called part B claims, again referring to the HEW section of the statute. The 1978 reform legislation requires the review of all claims filed with, but denied by SSA under part B.

When we came to the Congress last year we had separately analyzed the workload figures for part B reviews and claims filed under part C. Part B claims are now very old claims. There is no legal way they could have been filed after 1973. They represent some 175,000 claims that have been in the system, since 1969 and have been previously denied. They have been reviewed by various administrative as well as legislative direction further reviewed, rereviewed, and I think will be rereviewed periodically forever.

Senator EAGLETON. There are 175,000 actual claims pending?

Mr. ELISBURG. Those are the part B claims that were denied in the system. What happened is that Congress said give the denied claimants an opportunity to request one more review. All the claimants were notified however, the number of requests for review have been about 30,000 less than we had expected, with the resultant reduction in workloads.

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BLACK LUNG BENEFITS

Senator EAGLETON. How much does the Federal Government pay out in black lung benefits? Take the most recent year you have, whatever it is, where you have total figures.

Mr. ELISBURG. Benefits are being paid from HEW appropriations as well as Labor Department.

Mr. PUGH. In 1978, the Department paid out $76.8 million.

Mr. ELISBURG. That is the Labor Department.

Mr. PUGH. Right. This is just for the Labor Department.

Senator EAGLETON. HEW, my man tells me, is $1.5 billion; $1,005 million is HEW.

And what was the Labor?

Mr. PUGH. About $76.8 million in fiscal year 1978.

Mr. ELISBURG. We expect the figure for the Department to increase to $281 million this fiscal year and to about $424 million, in fiscal year 1980.

Senator EAGLETON. Let me go vote.

I'll be back.

[Recess.]

Senator EAGLETON. When I left——

Mr. ELISBURG. We were at $1 billion, going up.

Senator EAGLETON. Labor is going to go up to what?

Mr. PUGH. $281 million in fiscal year 1979.

Mr. ELISBURG. $424 million next year.

Senator EAGLETON. Why that explosion in the Labor account?

Mr. ELISBURG. We have had a tremendous backlog of claims, well over 100,000, filed under part C that have not yet been processed. As a result of the liberalization of eligibility required by the 1977 amendments, and extending the Federal program past 1981, as well as giving us the responsibility for paying all re-reviewed social security claims, which are approved, costs will increase. More people will be paid black lung benefits.

Senator EAGLETON. The growth of this is more on the Labor side than the HEW?

Can we expect that HEW has peaked, and will phase downward? Is that how we are looking at it?

Mr. ELISBURG. It will probably level out, and probably phase downward.

Mr. HARTMAN. Attrition.

Mr. ELISBURG. The 1977 amendments also required the provision of medical benefits, to current part B black lung recipients. The costs of these medical benefits are likely to be substantial.

Senator EAGLETON. Go ahead.

Mr. ELISBURG. We think that we have made a substantial amount of progress in implementing the Black Lung Act of 1977.

Senator EAGLETON. Every time we pass a Black Lung Act, we are told that that is absolutely, positively the last thing we will ever have to enact in that area.

I think since I've been here in the Senate, we've had three or four.

Do you think we've got the last one?

Mr. ELISBURG. Frankly, Senator, I think that depends on our approval rates.

It is a very difficult disease to diagnose, and obviously it represents a very difficult social program.

We did have a delay in getting the new program started because of the needs to rewrite all of our regulations, and obtain congressional approval of the supplemental for the necessary employees to administer the program.

We managed to get all of the 549 new people at least committed and onboard in early October. We have followed congressional direction and established a nationwide network of field stations and district offices. We think this will be a tremendous help in providing improved claimant service.

For the first several years of its life, this program was run out of Washington. A lot of problems were created for the Department and claimants due to the absence of the field operations.

FEDERAL EMPLOYEES' COMPENSATION ACT PROGRAM

The Federal Employees' Compensation Act program, which, of course, is included in the workers' compensation activity, has had a very substantial improvement. We are looking forward to continuing that improvement, and having it at a stable level in the next couple of years.

SPECIAL BENEFITS FUND

Senator EAGLETON. What are the payout figures on that one?

Mr. ELISBURG. FECA payments this year will be $735 million. Our request for next year is $848 million.

Senator EAGLETON. What are the old figures on that one?

Hasn't this one really exploded in the last 8 or 10 years?

Mr. ELISBURG. It did, indeed, starting in 1974, with the amendments to the act.

Senator EAGLETON. What was it back in the early 1970's?

Mr. ELISBURG. Back in 1973 it was $218 million. Back in the late 1960's, it was under $112 million.

Senator EAGLETON. 1973, $200 million, and this year, $735 million, and for next year, $8 million and something?

Mr. ELISBURG. I would say that the biggest jump was starting to occur in 1975 and 1976.

Compensation costs are now increasing about 15 percent a year, primarily due to increased Federal salaries, medical costs, and mandated cost-of-living increases.

QUALITY AND FRAUD CONTROL

Senator EAGLETON. Didn't I have a 60-Minutes question on this last year?

Mr. ELISBURG. That was the program about air traffic controllers.

Senator EAGLETON. Have you taken any steps, Mr. Elisburg, internally, to see that only valid claims, with valid substantiated injuries, and health defects, et cetera—I mean, what is your quality control in terms of claims management?

Mr. ELISBURG. We have taken a substantial number of steps in the last 18 months, ranging from writing a clear program manual, so that everybody has the same instructions, and can understand

them, to introducing the first formal claims examiner training program throughout the system.

We have devised performance standards for measuring the workload. We have a very comprehensive system of accountability reviews which cover in each of our district offices.

We have been working very extensively on getting quality control, medical standards, and that kind of concentrated management, from the claims examiner level, all the way through the supervisory levels and that has, I think, brought a good deal of quality control to the system.

In addition, we have some 46,000 cases, in long-term disability payment status on what is called the periodic roll. These are cases which have been adjudicated, and are continuously paid on a scheduled basis, normally once a month.

We have now reviewed a significant number of cases in that system to determine continued eligibility and whether the payments need to be reduced to reflect a wage earning capacity. We believe there are substantial savings to the Government in eliminating cases which should no longer be in the system.

One very important part of our quality control effort is the fraud control operation, which was introduced into the Department about 1½ years ago.

We introduced the fraud control function in ESA and subsequently transferred it to the Inspector General's Office, when the Department consolidated all such investigative activities. Prior to our action, the FECA had not been subject to any substantial fraud control program for some years.

The Department now has 22 investigators for this purpose. We have referred some 37 cases to the U.S. attorney and to date we have had 20 indictments, 10 convictions.

We now have approximately 435 investigations pending through the Inspector General's Office, including those with other agency investigators that are cooperating with us, such as postal inspectors, Treasury, and FBI.

Senator EAGLETON. Are these the first prosecutions for fraud in this program?

Mr. ELISBURG. They are the first prosecutions in a very, very long time that we know of. We think the effort has had a substantial effect on preventing the kinds of questionable claims that come to us in the first instance.

I have said before, and I will say again, that the vast number, perhaps 99 percent of those Federal employees who have applied for these benefits, have legitimate claims. Our interest is in protecting them from that 1 percent who feel an obligation to look for benefits that they don't deserve.

Senator EAGLETON. Proceed.

PROGRAM DEVELOPMENT AND ADMINISTRATION

Mr. ELISBURG. I have two other brief points that I would make about our programs. The program development and administration account is very important and includes our management research and support functions.

Our request calls for a total of 299 positions, and $17,074,000. Resources in this activity have remained essentially stable, over the years, despite a substantial expansion in the new initiatives of this agency in the number and scope of operational programs.

We have had to substantially broaden our research and evaluation efforts to conduct extensive studies in each of the three major program areas. Such studies emphasize the impact of program operations and policies in achieving program goals.

Integral to strengthening the effective management and direction of our programs are the efforts that I mentioned before to conduct ongoing accountability reviews, and checking on quality and quantity of performance standards.

We also have a program within this operation dealing with joint Federal-State cooperative projects, focusing on the elimination of duplicate State and Federal functions for similar programs.

SPECIAL BENEFITS ACCOUNT

If I may, I would briefly mention the special benefits account: The overall request for fiscal 1980 is $851,536,000, which is an increase of $113,238,000 over the fiscal year 1979 estimate.

The bulk of the request, $848 million, is for benefits under the Federal Employees' Compensation Act. The principal factors, in the estimated 15-percent increase are the costs-of-living adjustments to long-term beneficiaries based on the Consumer Price Index, along with the impact of Federal pay increases.

A $15.2 million increase is provided for medical costs on both new injury cases coming in, and the continued increase in costs of medical services for long-term cases.

I would like to point out that these accounts no longer include black lung benefits, which are now paid from a separate trust fund, financed by a coal tonnage tax.

That concludes my statement, Mr. Chairman.

FEDERAL EMPLOYEES' COMPENSATION ACT REMEDIAL LEGISLATION

Senator EAGLETON. One word on this FECA benefit. Do you think we are in need of any remedial legislation to downsize the amount of awards made under FECA, $848 million, whatever the figure is?

Mr. ELISBURG. We are currently working in the Department on a package of possible amendments to this act. The President's budget indicated that we would be submitting proposals to try to deal with some of the inequities.

Senator EAGLETON. Is it getting to be a pretty staggering amount?

Mr. ELISBURG. FECA benefits are a high-cost item. Frankly, one of the areas of concern is higher graded beneficiaries tend to have a disproportionate share of benefits related to preinjury wages compared to those in the lower grades. That is one of the areas that we are trying to develop some proposals such that they would achieve greater equity.

Senator EAGLETON. Last year, the General Accounting Office, in commenting on a bill for Federal minimum standards for State workers' compensation programs, suggested that Congress consider making workers' compensation benefits taxable.

GAO noted that the financial incentive to return to work is diminished by the tax-free nature of the workers' compensation, particularly when coupled with the growth of multiple-income families in recent years.

So my question is: If workers' compensation benefits were made taxable, what potential impact would the tax revenues have on the net cost of the FECA?

Mr. ELISBURG. There are two points that I would like to make about your question.

The first point is that we are seriously taking a look at taxation as a possible concept. It ought to be noted that while similar benefits in other countries are taxable, in the United States workers' compensation has always been a tax-free process. Under the FECA, the benefit formulas of two-thirds or three-fourths of preinjury salary level, has theoretically represented a discount for the full effect of taxes.

What we think about the possibility of taxing is that the most significant impact would be to eliminate existing inequities in net benefits between workers with different preinjury income levels.

Right now, the 75-percent flat payment works, however, at the higher grade levels where there is a substantial tax liability, an employee can be substantially better off on workers' compensation relative to normal take-home pay. That obviously can provide a disincentive to return to work, or to go on disability.

We believe if an adequate level of compensation benefits is provided, which would obviously have to be higher than the present level, but then subject the benefits to the income tax, you would provide a level of disposable income that would be equal in proportion to everyone at various grades.

The incentive to go on disability would be removed and the tax structure would reduce the inequities.

As a net cost to the program, I can't say—the Treasury Department would actually have to do some figuring about what kinds of savings.

We are not sure that the taxing workers' compensation benefits per se would be a big cost-saving item to the Government, as much as making the benefits more equitable. To the extent you obviously reduce those benefits at the higher levels than there would be otherwise, there would be some benefit to the program.

Senator EAGLETON. I would be anxious to have your views on that, and not limited just to that, but any other suggestions you have for remedial legislation that would induce some cost saving into this program. I think this is sorely needed.

Mr. ELISBURG. Obviously when a program costs as much as FECA benefits, there are problems. We think there should be additional incentives to disabled employees for returning to work, including rehabilitation, and reemployment rights.

We have had very good success in the last year in working with agencies like the Postal Service, the Air Force, the TVA, and some others, in developing light-duty jobs, and increasing rehabilitation programs. These agencies have reported that they are making substantial cost savings by emphasizing reemployment of disabled workers.

Secretary Marshall has been quite concerned with the safety and health operations with the Federal agencies, as another real cost saver. We have been working with OSHA and the Federal agencies to try to work out some systems of early alert to the agencies. We said, "You know, we've got this facility here, and here all these injuries are coming, you better take a look at it, because it is costing you a fortune."

Senator EAGLETON. All right.

DAVIS-BACON ACT

A few questions. Again referring to the General Accounting Office, they have charged that the Davis-Bacon wage determinations, which are made by the Department of Labor, are often higher than the prevailing local wages, and therefore that the administration of the provisions tends to be very inflationary. We have heard that charge.

Can you give me a satisfactory response?

I must say that is a view that is getting increasingly wide acceptance around Congress, that the way you folks interpret Davis-Bacon is always gold plated, superdeluxe, absolute top dollar that anybody could ever even remotely conjure.

Mr. ELISBURG. I would like to suggest, Senator, that while that certainly has been the allegation, we do not agree with the General Accounting Office or others who have alleged that.

The concept of prevailing wages, which is the wage level that is found to be prevailing through surveys in a particular area, by nature can't be inflationary. You are not increasing the wage levels. You are finding what contractors are paying workers in the particular area.

We have responded to the specific allegations, in various and sundry situations, that we were requiring higher wage levels than the surveys warranted. I don't know whether you are familiar with the Secretary's response to GAO's draft report, but perhaps we should submit it for the record. It is a rather lengthy document that goes into the fact that if you do a proper wage survey, and a proper wage determination—obviously to the extent that we can improve that process we want to do it—that whatever is being paid in the area will be what is the wage for that Government contract.

What we are concerned about—and I think that which goes to the heart of the Davis-Bacon Act, as well as other prevailing wage laws—is that if the Government were to use its purchasing power to drive down wages, we would be, in effect, establishing a substandard wage level and misusing workers.

Senator EAGLETON. Well, isn't part of governmental policy at the present time—I saw Mr. Kahn on the morning show, or whatever it is called, on the "Today Show"—isn't part of this Government's policy to—if not to drive down wages, to use those negative terms, to use the Government's contracting authority, purchasing authority, and whatever mechanisms it can, to moderate increases in wages?

Mr. ELISBURG. Well, I certainly think there is a difference between using that authority to moderate increases and going into an

area where people are earning a particular wage level, and using your contracting power to drive those wages down.

That is really what was behind the process of passing Davis-Bacon Act in 1931.

There are various ways in which you can save money on Government contracting, such as writing a tight contract, but forcing workers to compete with each other for particular wages on a particular job, we think, is not the process that Congress intended.

Senator EAGLETON. This multipaged document, this is the Labor Department's sort of rebuttal to the GAO?

Mr. ELISBURG. You may have it, sir.

OFFICE OF FEDERAL CONTRACT COMPLIANCE OPERATIONS

Senator EAGLETON. With respect to the employment of the handicapped, why don't you have specialists to handle employment discrimination, to handle discrimination of the handicapped cases?

Mr. ELISBURG. I would like to ask Mr. Rougeau to respond to that, if I may.

Mr. ROUGEAU. When we consolidated the contract compliance program, Senator, we inherited quite a few people who were dedicated solely to Executive Order 11246 enforcement. It was our view that we would be able to augment our enforcement capabilities tremendously if the people who were coming in as Executive Order 11246 enforcement personnel were cross trained so that they could also do handicap enforcement cases, which have increased tremendously, and who could also do Vietnam veterans' complaints.

It is our feeling that we should have generalists who could do investigations across the board in any area, and at the same time train our handicap personnel so that they could do Executive Order 11246 investigations.

Since October, we have been able to very substantially reduce a backlog in the 503 handicap area as a result of using those people who transferred from other agencies.

In our estimation, it is an efficient way of using the resources that we have, and it also helps to provide diversity to the employees that are involved.

I just don't think that handicapped people, simply because they have been working to resolve complaints of handicapped people, should be limited in their professional lives just to working with handicapped people.

Mr. ELISBURG. I think also when we get into the concept of how we want to run this program, we have shifted emphasis from one of chasing individual complaints—which we still must do—to the compliance review of facilities, requiring facilities to be reviewed for compliance in the veterans and handicapped programs, as well as the Executive order program.

This provides a better use of our resources, as well as coverage around the country for the compliance officer who goes into a particular company, to be able to review that operation for both Executive order as well as handicap compliance. That gives us a multiple ability to protect the handicapped class.

ASBESTOS CLAIMS

Senator EAGLETON. Has there been an upward spiral insofar as asbestos claims under FECA, or the Longshoreman's Act?

Mr. HARTMAN. Senator, surprisingly, the number of claims filed has not materially increased. The estimated potential is clearly substantial.

Senator EAGLETON. In the tens of millions.

Mr. HARTMAN. Yes.

If we go back to the announcement in April of 1978, between 8 and 11 million American workers could have been and probably were exposed to asbestos, since World War II.

At this point, by all authorities, including the National Cancer Institute, it is estimated that ½ to 2½ million are still employed.

These former employees, the largest group approximating 4½ million, were workers in American shipyards during World War II.

The National Cancer Institute has estimated that approximately 2½ million of these individuals can be expected to die from asbestos-related cancers.

Senator EAGLETON. Are we describing the areas of employment where there would be Federal responsibility?

Mr. HARTMAN. Naval shipyards, for example, were the largest single group.

Senator EAGLETON. Yes.

Mr. HARTMAN. Private shipyards in World War II were essentially devoted to naval construction.

Senator EAGLETON. Yes.

Mr. HARTMAN. But even in the years since, in building vessels for private business, until they changed the techniques, asbestos, or asbestos-related material, was used for all sorts of things.

Now, it is put on wet, and unless you buy it in pipe form, put it on and band it, you are putting it on wet. I might say that the Navy, I'm advised, stopped using asbestos only in 1974.

Due to the age of the fleet, the additional exposure occurs when a vessel comes in for repair. Unless you wet the asbestos down to keep the dust level low; unless there is a proper exhaust system; and the employees are wearing appropriate respirators, and I mean air-supplied respirators, not just a small mask over their face, they are constantly being exposed to dust. So it all depends upon protection, ventilation, and housekeeping.

And, of course, you've got your manufacturers of asbestos who are involved. The number of people that are dealers, vendors of one kind or another of asbestos, and asbestos products, has brought the number of potential claims into a category of somewhere between the range of last April's announcement by Secretary Califano of 8 to 11 million.

It is estimated 2½ million, based on data from the National Cancer Institute, would die; about 7 percent of heavily exposed employees would sustain asbestos-related pneumoconiosis; 25 percent of exposed individuals will die of lung cancer; 7 to 10 percent have mesothelioma; and 8 to 9 percent of heavily exposed individuals from gastro and intestinal cancers.

Mr. ELISBURG. We would roughly estimate that maybe 600,000 direct former Federal employees or Federal related employees might have potential claims here.

In fact, we only have received about 850 claims.

HEARING LOSS CASES

If what has been predicted were to take place, it would be really catastrophic for our system. We have had one closely related problem, Senator, and that is hearing loss. We have had literally thousands and thousands of hearing loss claims coming out of the same shipyards. We have special claims to deal with that on a class force basis.

Senator EAGLETON. And you've only got 850 asbestos-type cases, but thousands of hearing loss cases?

Mr. JENNINGS. The total is in the range of 25,000 hearing loss cases.

Senator EAGLETON. That is accumulated total?

Mr. JENNINGS. Yes. since 1970.

Senator EAGLETON. How much was paid out last year in hearing loss claims?

Mr. JENNINGS. I don't have the exact figure now, but it probably runs in the neighborhood of $10 to $20 million.

Senator EAGLETON. $10 to what?

Mr. ELISBURG. $10 to $20 million.

Senator EAGLETON. $10 to $20 million last year.

That is a rapidly increasing figure?

Mr. JENNINGS. No. I think the numbers of claims are leveling off. What we are working on is a substantial number that accumulated over a certain period of time. I don't think that the numbers are increasing. The dollars are.

Senator EAGLETON. Thank you very much, gentlemen; I appreciate it.

Mr. ELISBURG. Thank you.

[The statement follows:]

STATEMENT OF DONALD ELISBURG

Mr. Chairman and Members of the Committee, I will discuss the Fiscal Year 1980 Budget Request for Salaries and Expenses for the Employment Standards Administration, and a Supplemental Appropriation for Salaries and Expenses in Fiscal Year 1979 for the Federal Employees' Compensation Program. I will also discuss the Special Benefits accounts later in this statement. Since we last appeared before this Committee, there have been significant changes in the agency through the President's Reorganization Plan No. 1 and the consolidation of the contract compliance programs into the Department. I will cover these in some detail as we proceed. In addition, there have been changes in the scope of the workload under programs administered by this agency which affect the resource levels necessary for this and next fiscal year.

The FY 1979 Supplemental proposes 207 additional positions and $8,218,000 over the FY 1979 appropriation. The FY 1980 Salaries and Expenses account requests provide for 5,233 full time permanent positions and $164,923,000. The Special Benefits Fund requests $851,536,000, of which $307,386,000 is in direct appropriation, with $544,150,000 being reimbursed from other sources.

Fiscal Year 1979 Supplemental Request - Workers' Compensation Programs

As I have told the Committee on previous occasions, our top priority has been to improve the administration of the Federal Employees' Compensation Act. In the last two years, we have taken a number of steps to provide effective, responsive services to claimants and at the same time adequately protect the government's interest under this legislation. And we have made significant progress.

However, in the two to three years after enactment of the 1974 Amendments to the Federal Employees' Compensation Act, higher than anticipated workloads overwhelmed available personnel resources creating a situation where the compensation system either failed to function or functioned inadequately. Injuries reported in FY 1978 were 78 percent higher then those reported in FY 1973. The number of long-term compensation recipients grew by 58 percent in the same period. Claims filed under the 45-day continuation of pay provisions totaled almost 95,000 in FY 1978, compared to just over 30,000 filed the first year after the amendments. The process of documenting, evaluating and adjudicating claims is one which cannot be short-cut, particularly if the interest's of the government and claimants are to be protected.

Some additional resources were provided in the FY 1977 Supplemental Appropriation Act. Management systems improvements were initiated and progress is being made in improving program operations. However, as workloads continued to increase, minimum performance standards could not be met, inventories of case actions increased beyond tolerable levels and initiatives to improve the administration of the FECA were jeopardized. In mid-FY 1978, the Department reprogrammed the unused balance of appropriations for the Black Lung program after the effective date of the new Black Lung Revenue Act, to meet these critical problems. These resources had a significant impact on the timeliness and quality of the claims adjudication pro-

cess. That appropriation expired at the end of FY 1978. The Department does not have the resources to maintain this reprogramming action in FY 1979. Nonetheless, the workload and operational conditions which warranted the reprogramming remain.

ESA is requesting an additional 365 staff-years of effort and $8,218,000 for this purpose. These additional staff-years will be comprised of 199 staff-years from the 207 full time permanent positions and 25 staff-years from currently authorized but unfunded permanent positions. The remaining 141 staff-years represent the use of temporary personnel. The permanent resources are needed to meet ongoing workloads. The temporary personnel will provide the means to make an intensive short-term effort to reduce workload inventories and stabilize program operations. By mid-FY 1980, if this request is approved, we expect to have inventories reduced and workload controlled to the point where established performance standards can be met and the temporary personnel phased out. This is reflected in the FY 1980 Budget. The alternative to the provisions of the Supplemental is to forego the gains made as a result of the FY 1978 reprogramming action and once again see the system overwhelmed.

Improving and Protecting Wages

I would now like to discuss the components of the FY 1980 Budget. The request provides 1,758 positions and $62,221,000 for all programs funded under the budget activity Improving and Protecting Wages, a decrease of 133 positions and $2,334,000 below the FY 1979 Budget. These programs include administration and enforcement of minimum wage, overtime and child labor laws, prevailing wage standards for Federally funded contracts, standards for migrant workers, and wage garnishment protections. The Department had estimated there would be an approximate 20 percent increase in the number of complaints received alleging violations of the Fair Labor Standards Act in the eighteen month period following the 1977 Amendments to that Act. The increase in complaints did not materialize. As a result, the resources proposed for FY 1980 will enable ESA to assure that complaint inventories remain stable and standards of performance are at an acceptable level.

The FY 1980 Budget also provides resources to conduct a total of 13,200 investigations for the initiative to eliminate the economic incentives for employers to hire undocumented workers. These investigations which are based on the likelihood of violations of labor standards are targeted at those industries, occupations, and geographic areas where undocumented workers are most likely to be employed. In the agricultural sector this effort will be undertaken in conjunction with our regular enforcement of the Farm Labor Contractor Registration Act. We are seeing some improvement in the overall Farm Labor Compliance program; more contractors are registering, and there is a slight decline in the rate of violation discovered and in the number of repeat violators. The overall compliance picture, however, is still unacceptable. We anticipate that 6,600 agriculture-related investigations will be conducted in FY 1980, compared to a total effort of 3,800 such investigations made in FY 1978.

We will issue approximately 18,000 construction wage determinations in FY 1980 under the Davis Bacon Act, and 6,600 wage determinations under the Service Contract Act. Approximately 3,300 compliance

actions will be conducted resulting in the restoration of $7,500,000 to more than 38,000 workers under the prevailing wage laws.

Elimination of Discrimination in Employment

Under the activity, Elimination of Discrimination in Employment, the FY 1980 request totals $50,105,000 and 1,480 positions. The proposal reflects the impact of Reogranization Plan No. which transferred enforcement responsibility for the Age Discrimination in Employment Act and the Equal Pay Act from the Employment Standards Administration to the Equal Employment Opportunity Commission effective in July of this year. This action requires a reduction in the ESA budget of 239 positions and $1,917,000 in FY 1979.

The budget also reflects the impact of the consolidation of the contract compliance programs as authorized by Executive Order 12086 within the Department as of October 1, 1978. Functional responsibilities and staff from eleven other Federal agencies were transferred into the Department and combined with the staff which had been performing lead agency functions for these programs. An entirely new organizational structure has emerged. Executive Order 11246 prohibits discrimination against minorities and women and requires goverment contractors to take affirmative action to ensure nondiscrimination in their work forces. The consolidation was based on the need for more consistent procedures, unified enforcement, elimination of duplicative enforcement with regard to contractors and was an integral part of the Administration's efforts to improve the enforcement of equal opportunity protections. This action enables ESA to amalgamate the enforcement of procurement-based equal opportunity requirements including those protections for the handicapped and certain veterans authorized by the Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act.

A decentralized field structure of 71 area offices in 63 cities has been established. This network adds 21 new locations to the contract compliance operations previously in existence, and strengthens the capabilities in all offices. Through this structure, the enforcement program will resolve individual and class complaints as mandated by the laws and orders; conducted comprehensive compliance reviews of Federal contractor facilities, particularly of major employers where potential opportunities for affirmative action are greater; and meet the requirements of a number of consent decrees and other externally imposed enforcement requirements. We are establishing stronger links with training and placement agencies to directly connect the supply of workers in protected groups with job opportunities.

We anticipate that the consolidated organization will make the contract compliance affirmative action program truly effective and have a meaningful impact both on increasing the numbers and upgrading the employment status of minorities, women, handicapped workers, and veterans. The FY 1980 Budget provides an increase of $5,160,000 over 1979 levels primarily to meet space requirements and data processing needs for which funds were not received in the initial transfer.

Workers' Compensation Programs

Three Workers' Compensation programs are included under this activity--the Federal Employees' Compensation Act, the Longshoremen's and Harbor Workers' Compensation Act, and the Federal Mine Safety and Health Act (Black Lung Benefits). The Salaries and Expenses request totals 1,696 positions and $55,393,000. This represents a decrease of 162 positions and $7,705,000 below FY 1979 levels. The proposed decrease will occur in the Black Lung program.

Incoming Black Lung workload trends indicate that the projections presented to Congress at the time of the Supplemental Budget request last year were higher then we are actually experiencing. Current data indicate that we will receive approximately 30,000 fewer requests for review of claims originally denied by the Social Security Administration under Part B of the Act. Therefore our budget request proposes a decrease for the positions which would have been associated with the processing of these claims. This decrease will not adversely affect the processing of the remaining claims inventory.

Progress has been made in the Black Lung program since the March 1978 enactment of the Black Lung Benefits Reform Act, which brought about major changes in program operations and workload by extending coverage of the law to a significantly greater claimant population, and by mandating review of all pending and previously denied claims. Among the accomplishments have been the establishment of a nation-wide network of field stations and district offices to provide improved claimant service, the issuance of revised implementing regulations, and the conduct of an agressive public information program which included more than 250 meetings in 90 coal mining towns to inform potential claimants of revised eligibility criteria.

I have already mentioned the pressing need for additional resources in FY 1979 for the Federal Employees' Compensation program. The priority in 1980 will continue to be to provide effective claims service to employees and maintain quality control in claims adjudication. With the moderating rate of increase in incoming workload, we should approach a program equilibrium in the latter part of FY 1980 between new cases and resolution of earlier cases.

In the Longshore program, the rate of inflow of new claims filed is expected to stabilize after a major upswing in FY 1978 and remain relatively constant through FY 1980. With the increased workloads being experienced, we will be able to maintain the present level of performance through increased productivity, but the higher level of incoming cases will not permit as much reduction of inventory.

Program Development and Administration

In the activity titled Program Development and Administration, which includes ESA's management, research, and support functions, the FY 1980 Budget request calls for a total of 299 positions and $17,074,000. Resources in this activity have remained essentially stable despite a substantial expansion in new initiatives in the number and scope of ESA operating programs. Effective executive direction of ESA programs depends to a large extent on adequately measuring and evaluating the impact of program operations and labor standards in the economy, and analyzing the impact of alternative strategies to achieve the most effective use of resources.

There are extensive research studies in each of the three major program areas, emphasizing the impact of the affirmative action program operations and policies in achieving program goals. The major areas of effort include determining the impact of the affirmative action programs in increasing minority employment opportunities and reducing discriminatory practices; the impact of the 1977 FLSA Amendments; and the impact of various standards and criteria on adjudication under the compensation programs. For this increased level of research and evaluation effort, an additional $1.2 million is included in our request.

Integral to strengthening the effective management and direction of ESA programs are our efforts to conduct a vigorous on-going accountability and review process, emphasizing the achievement of measurable program goals, conformance to quantity and quality performance standards, operating procedures and policies, and the involvement of all levels of ESA managers in the process. This process has helped greatly to bring about significant improvement in ESA program performance.

A number of ADP projects will be incorporated into operations or be under development in FY 1980, including the claims processing system for the Federal Employees' Compensation program, a new management information system for the Wage and Hour programs, and systems to monitor activity and provide a variety of demographic and performance data for the contract compliance programs.

ESA will continue its efforts to develop joint Federal/State cooperative projects, focusing on the elimination of duplicate State and Federal functions for like programs. Projects funded to date include joint complaint referrals, information sharing activities, and combined State/Federal registration of Farm Labor Contractors.

Mr. Chairman, to summarize the Salaries and Expenses requests for FY 1980, these budget proposals are realistic, and reflect the true needs of each program element. The requirements have been carefully projected based upon planning and performance information and increasing staff productivity.

Special Benefits Fund

Turning to the Special Benefits accounts, the overall request for FY 1980 is $851,536,000 an increase of $113,238,000 over the FY 1979 estimate. This total for FY 1980 includes $307,386,000 in direct appropriations, an increase of $76,186,000 from the previous year, and $544,150,000 in reimbursements from other sources, an increase in reimbursements of $37,052,000 over the FY 1979 level.

The Fund provides for the payment of workers' compensation benefits under the Federal Employees' Compensation Act, and the Federal share of benefit costs under the Longshoremen's and Harbor Workers' Compensation Act. The Black Lung benefits are now financed from a separate Black Lung Disability Trust Fund. This Fund was established under the Black Lung Revenue Act of 1977 and jointly administered by the Secretaries of Labor, Treasury, and Health, Education and Welfare. The Fund provides for payment of benefits, administrative expenses related to the operation of the Black Lung

program, and repayment of advance to the general fund with interest. Resources for the fund are derived from an excise tax on the tonnage of mined coal, fines and penalties assesed the mine operators, and when needed, funds transferred from the advances to the Unemployment Trust Fund and Other Funds appropriation account.

The bulk of request, $848,167,000, is for the Federal Employees' Compensation program. Under extensions to the Act, these benefits are also paid to certain other groups such as non-Federal law enforcement officers and Job Corps enrollees.

The principal factors in the estimated 15 percent increase in overall compensation costs over FY 1979 are the cost of living adjustment feature based upon the Consumer Price Index, along with the adjustment for the Federal pay raise. The anticipated $15,241,000 increase for medical costs is related both to the increasing number of injury cases and to the continuing rise in the general cost of medical services.

The Black Lung Disability Trust Fund was established April 1, 1978, by the Black Lung Benefits Revenue Act, companion legislation to the Black Lung Benefits Reform Act. The Fund is financed primarily by an excise tax on mined coal tonnage. Currently, the tax is set at $.50 per ton for underground-mined coal and $.25 per ton for surface-mined coal, not to exceed 2 percent of the sale price, FOB mine. Additional funds come from reimbursement payments from mine operators for benefit payments made by the Fund before the mine operator is found liable, and income from investments made by the Secretary of the Treasury on behalf of the Fund. The Benefits Revenue Act also provides for repayable advance to the Fund in the event Fund resources will not be adequate to meet program obligations; such advances are to be repaid with interest. The Fund is in custody of the Treasury Department and is administered jointly by the Secretaries of Labor, Treasury, and Health, Education and Welfare, with the Secretary of Treasury having primary managerial responsibility.

The Fund will pay all Black Lung compensation and medical benefits expenses when coal mine employment ceased prior to 1970 or when no responsible mine operator can be assigned liability for such benefits. It will also pay all administrative costs of the Departments of Labor, Treasury, and Health, Education and Welfare which are incurred in administering the benefits program and operating the Trust Fund.

In Fiscal Year 1980, we are requesting authority to expend $466,667,000 from the Black Lung Disability Trust Fund. An estimated $436,171,000 will be needed for the payments of benefits as well as interest accumulated or repayable advances, and $30,496,000 for the administrative expenses of the Departments of Labor, and Health, Education and Welfare. In addition to this request, ESA anticipates obligating an additional $1,000,000 in benefits to be collected from responsible mine operators and paying into miscellaneous receipts an estimated $765,000 for the administrative expenses of the Department of Treasury.

Mr. Chairman, that concludes my formal statement. My staff and I are prepared to answer any questions you might have.

(The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:)

FARM LABOR CONTRACTOR REGISTRATION ACT

Question: What efforts have been made by the Department to enforce the Farm Labor Contractor Registration Act?

Answer: Since the Act was amended in 1974, enforcement has been a key factor in building a strong program. Enforcement time has steadily increased each year. In FY 1975, for example, 6.4 work years of enforcement were expended, while in FY 1978, 30.1 work years were expended. The registration statistics for FY 1978 increased again as they have each year since the Employment Standards Administration assumed responsibility for the program. A total of 16,474 certificates and identification cards were issued during FY 1978 (8,739 farm labor contractor certificates of registration and 7,735 farm labor contractor employee identification cards). It is estimated that well over one-half million migrant farmworkers worked for registered farm labor contractors during FY 1978.

Question: Specifically, since the Act was amended in 1974, how many compliance investigations have been conducted by Labor annually?

Answer: The number of investigations completed during the fiscal year was 3,824 as compared to 2,327 investigations completed during FY 1977.

Question: As a result of compliance investigations, how many violations were noted, and what was the amount of fines assessed for those violations?

Answer: The FY 1978 investigations in which remedial action may have been indicated increased to 70 percent from the 67 percent found in FY 1977. We are continuing to pursue the multiple remedies available under the statute. The civil money penalty program has increased significantly resulting in over $1.6 million assessed during FY 1978, in nearly 1,500 cases.

Question: Of the fines assessed, how much has been collected?

Answer: In FY 1978, $175,000 was collected. In a majority of the assessment cases, however, administrative hearings have been requested. It is anticipated that as the hearings are held, the Administrative Law Judges will uphold the assessments, and the collections will rise significantly.

In addition, we have continued to seek injunctive action and criminal action in cases which warrant litigation. Administrative actions pursuant to Section 5(b) of the Act have resulted in a significant increase in revocations and refusals of certificates of registration and employee identification cards.

It is our intention to continue the initiatives taken on the Farm Labor Contractor Registration Act since the 1974 Amendments to insure that farmworkers receive all the benefits and protections to which they are entitled.

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EXTENT OF FARM LABOR CONTRACTOR COMPLIANCE

Question: Has the Office of Contract Compliance Programs made any study on the extent of the Farm Labor Contractor compliance since they have assumed responsibility for enforcing the program?

Answer: The Wage and Hour Division is responsible for this program. While it has not conducted a formal study on Farm Labor Contractor compliance, there is a continual monitoring of the Compliance program to determine particular violative areas which may require a special or concerted enforcement effort. Violations of the statute are also monitored to provide the Division with data on those areas where further training of enforcement personnel may be warranted and where regulations or interpretations would result in a higher level of compliance. During FY 1976, violations were found in 90 percent of the investigations conducted. The violation rate dropped to 67 percent in FY 1977 and has remained at about 70 percent in FY 1978.

COMPLAINTS OF FLCRA NONCOMPLIANCE FROM STATE EMPLOYMENT SERVICE

Question: Has the Office of Federal Contract Compliance Programs received any complaints from the State Employment Service agencies regarding noncompliance by covered Farm Labor Contractors, and what action has been taken on such complaints?

Answer: The following number of complaints have been received by the Wage and Hour Division, which is responsible for the FLCRA program, from State Employment Service Agencies: FY 1975, 130; FY 1976, 260; FY 1977, 157; FY 1978, 138. All complaints received by the Division from State Employment Service agencies are handled on a priority basis. It is the policy of the Division that in all cases where complaints have been received from State Employment Services Agencies, the Division notifies the Employment Service Agency of the disposition of the complaint.

COMBINING FARM LABOR AND FAIR LABOR STANDARDS INVESTIGATIONS

Question: According to farm labor investigation procedures, a compliance investigation will also include an investigation for Fair Labor Standards Act compliance. How many farm labor actions were conducted concurrently with FLCRA fair labor standards investigations during fiscal years 1976, 1977, and 1978?

Answer: Concurrent FLSA and FLCRA investigations have been conducted since ESA assumed responsiblity for FLCRA. However, investigation results for the two programs were on separate reporting systems and not combined statistically, prior to January 1, 1978. Under the new statistical reporting system, from January 1, 1978, through December 20, 1978, 3,124 FLCRA investigations were conducted. In 1,264 (40%) of the cases, there were concurrent FLSA investigations.

SUB-MINIMUM WAGE

Question: Administratively, what has been the impact of the 1977 "Nelson Amendment" to the Fair Labor Standards Act, which was intended to simplify the procedures under which the Secretary of

Labor might permit the employment of student workers at a sub-minimum rate?

Answer: The administrative impact of the Nelson Amendment has been to increase the percentage of certificates issued under the simplified type of authority from 5 percent of all certificates issued during fiscal year 1977 to 19 percent of all certificates issued during fiscal year 1978. The following table details the number of certificates issued under the simplified authority and all certificates issued.

Full-Time Student Certificates Issued to
Retail or Service Establishments and in Agriculture

	Certificates Issued Under Simplified Authority	Other	Total	Percent Receiving Simplified Authority
FY 1977	973 (four or less)	17,944	18,917	5
FY 1978	5,810 (six or less)	25,214	31,024	18

Question: Has there been any negative impact from this amendment, such as displacement of workers not eligible for the sub-minimum certification program?

Answer: The Department, through its investigation and certification activities and handling of employee complaints, has not found evidence of displacement or other negative effects resulting from the program.

Question: What verification procedure has the Department instituted to make certain that no disemployment impact (for other than certified workers) will result?

(Background: Under Section 14 of the Fair Labor Standards Act - the FLSA - employers in the retail and service industry have been permitted, subject to certain restrictions, to employ full-time students working part-time at 85 percent of the otherwise applicable Federal minimum wage under a special certificate issued by the Secretary of Labor. Until the enactment of the 1977 FLSA Amendments, the certification procedure was cumbersome. Some employers were said to have declined the option of employing students at the sub-minimum rate because of the paperwork burden involved.)

Answer: The Department is limited as to what verification procedures may be used to insure that no disemployment impact results from this specific amendment. The language of the Amendment, incorporated as Section 14(b)(4)(D) of the Fair Labor Standards Act, limits those items of information which may be required on the simplified application form. These items are:

(i) a listing of the name, address, and business of the applicant employer,

(ii) a listing of the date the applicant began business, and

(iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.

Item (iii) is the only one which addresses the question of possible disemployment and is required of all applicants.

The Department also conducts investigations of establishments which have authority to employ full-time students at sub-mimimum wages. In fiscal year 1977, 520 such investigations were conducted and 504 were conducted in fiscal year 1978. No instances of worker displacement were evident.

CONSOLIDATION OF FEDERAL CONTRACT COMPLIANCE

Question: Upon the consolidation of the Office of Federal Contract Compliance Programs and its 11 sister agencies, Director Weldon Rougeau apparently stated that his office will direct its efforts on "growth industries" -- coal, banking, and insurance. Can you tell us what OFCCP is doing to assure affirmative action in these industries?

Answer: Immediately upon consolidation, OFCCP began studying these industries with an eye toward developing individual standards for each of them. These standards are being developed for the banking and insurance industries on the basis of industry data on employment, employment patterns and typical organizational structures in the industries. Our efforts also have included close contacts with selected contractors, industry associations and interested community groups. The banking and insurance analysis and standards are nearly ready for field testing. In addition, more than 50 banks are presently under review throughout the country.

Our approach to the coal industry has essentially been the same as for banking and insurance. In addition, however, a number of reviews of coal facilities is being scheduled. When those reviews have been completed, the results will be analyzed to develop the standards.

Question: Problems under the earlier system were inconsistencies among the compliance agencies' policies and a lack of coordination between the Labor Department and the compliance officers in the various agencies. How has the consolidation effort responded to these criticisms?

Answer: The consolidation provides OFCCP with the administrative means and authority to enforce equal employment opportunity and affirmative action requirements of Federal contract work in a more effective manner. It will mean a better approach and less confusion for both the covered groups and the employers alike. The consolidation does not necessarily mean that more reviews will be conducted during this transition period, but it does mean that the reviews conducted will be of a much better quality than those which have been developed. All EOS's throughout the country are now following the same instructions for conducting comprehensive compliance reviews. These reviews cover not only supply and service elements of a review, but also the aspects of the handicap and veterans

portions of a contractor's affirmative action plan. Contractors benefit by this type of review, both in time and money. They are no longer subjected to being reviewed by different EOS's on different occasions using different policies and procedures to conduct the reviews. Both employer groups and protected groups now have a single agency to look to for responsibility for the Executive Order and Veteran and Handicapped programs.

DEFICIENT CONTRACT COMPLIANCE PLANS

Question: What efforts will be undertaken to monitor compliance officers' activities to ensure that they are not approving affirmative action plans which are deficient?

(Background: The GAO study found that compliance agencies were approving affirmative action plans in which the goals and timetables for achieving those goals were not properly established by contractors. For example, if goals are based on the number of minorities and/or women to be hired rather than on increases in the number of minorities employed in the contractor's workforce, it is possible to meet the hiring goal, but over a period of time, end up with much less than this number through turnover.)

Answer: Several steps have been taken to eliminate the approval of deficient AAP's:

1. An operating compliance manual has been developed and all EOS's have been trained in its use. This manual contains extensive guidelines and procedures to be followed by equal opportunity specialists in their review of affirmative action plans; and which will help to assure consistency in the conduct of reviews.

2. An interim automated management information system has been developed which reflects terminations as well as hires of the contractors for the period.

3. A quality audit system has been developed to monitor affirmative action plans approved by equal opportunity specialists and Area Office Directors. This monitoring system will be used by the Regional Offices and the National Office to carry out detailed selective reviews of entire case files including AAP's processed by the specialists to determine adherence to agency procedures and policies.

"CONTINUATION OF PAY" COSTS

Question: It has been contended that the "continuation of pay" provisions of the Federal Employees' Compensation Act (FECA) place a substantial cost burden on the Federal Treasury; as a result, GAO is looking into the cost and administration of these provisions.

Do you have any estimates of the cost of the 45-day continuation of pay rules under the Federal Employees' Compensation Act?

Answer: Our estimates on the utilization and cost of continuation-of-pay (COP) by Federal employees are based on the quarterly data reports submitted from approximately 90 percent of the Federal establishment. From these reports, we estimate that, on a quarterly

basis, the cost of COP is approximately $15 million, representing direct salary continuation expenses for almost 30,000 employees disabled for over 225,000 days -- more than 866 staff-years. However, this data represents purely costs of salaries for lost labor time over a three-month period. The GAO is evaluating the related costs of COP not readily evident or currently available to OWCP, such as agency administrative expenses, associated medical costs, impact of lost time on or required overtime by non-injured office workers, and value of unfinished work products.

LONGSHOREMEN'S ACT

Question: The cost of Federal assistance can be calculated both as direct payments from the Federal Treasury and as "tax expenditures" in the form of foregone taxes. Under the Longshoremen's and Harbor Workers' Compensation Act, the Federal Government is directly involved in setting benefits and administering an assistance program that, aside from a very small direct cost to the Treasury for administration, must cost a significant amount in "tax expenditures", in addition to placing a direct cost on employers in the form of premiums paid for workers' compensation insurance.

What do you estimate is the "tax expenditure" cost of the Longshoremen's Act both in the form of foregone taxes on benefits paid out and, just as important, foregone taxes on premiums costs to employers?

This is especially important now in that both benefits paid out and premium charges to employers appear to be rising substantially.

Answer: The Department of Labor is unable to estimate foregone taxes on premium costs to employers under the Longshoremen's and Harbor Workers' Compensation Act (LHWCA) because data on the amount of premiums are not reported to the Department. Most large employers covered by the Act are self-insured and would, therefore, not incur premiums on benefit costs.

Question: What do you estimate is the direct premium cost to employers who must furnish Longshoremen's Act workers' compensation insurance coverage to employees?

Answer: The Department is unable to estimate direct premium cost to employers, because such data are not reported to the Department. Manual rates approved by State insurance commissions do not provide a basis for estimating premium costs to employers, since other variables are included in determining premiums for individual employers.

Question: Are employers experiencing any substantial difficulty in obtaining insurance coverage at a reasonable cost?

Answer: There have been periods since 1972, when the Longshoremen's and Harbor Workers' Compensation Act (LHWCA) was amended, when it was both difficult and expensive for employers, especially small ones, covered by the LHWCA, to obtain commercial coverage. This dual situation developed dramatically in 1976, and became extremely critical in California and Washington in 1976 and 1977. In California, the State legislature responded by enacting a bill

enabling the State Compensation Fund to write LHWCA coverage for two years. (This law was later extended for an indefinite period.) In both States the situation was further relieved by the entrance on the commercial market of a carrier which had previously not been active in those States.

The Department of Labor has been able to assist individual employers to obtain coverage. Rates, however, are approved and regulated by State insurance commissions who approve increases or decreases in manual rates based on information submitted to them by the industry.

To obtain a more accurate picture of the insurance problems relating to rates and availability, the Department contracted to have a detailed study made of the subject. The report of the contractor has not yet been submitted in final form, but indications are that it will provide data which the Department may use in recommending actions or changes which might alleviate the employers' problems.

BLACK LUNG INSURANCE FUND

Question: The Black Lung Benefits Reform Act of 1977 authorized establishment and implementation of a black lung insurance program if insurance is not otherwise available, at reasonable cost, to operators of coal mines.

Have you determined whether coal mine operators are experiencing difficulty in obtaining insurance at a reasonable cost to cover their black lung compensation responsibilities?

Answer: Insurance rates have not been revised to take account of the experience under the amended Act. Currently as far as we know, coal mine operators are able to obtain insurance at reasonable cost. Since the insurance companies are in the process of revising their rates, this situation could change.

Question: What are your plans in regard to setting up a black lung compensation insurance fund?

Answer: We have not experienced a demand for the establishment of an insurance fund. When there is a significant indication that a fund is needed in the industry, we will give the matter careful consideration.

OCCUPATIONAL DISEASE STUDY

Question: The Black Lung Benefits Reform Act of 1977 required a study of all occupationally related pulmonary and respiratory diseases, with a report due in the fall of 1979.

Have there, as yet, been any significant findings from this study which might lead to early action by the Labor Department?

Answer: The Department of Labor initiated a study of occupationally related pulmonary and respiratory diseases in March of 1978. We currently anticipate issuing our first reports on this study in

the fall of 1979. To carry out this effort, several research contracts have been entered into with a number of medical experts and organizations knowledgeable in the areas of occupational diseases, workers' compensation laws and systems, and the demography of the incidence of diseases. These research efforts are presently underway, but at this time it is too early to derive significant findings on which to base or consider early action by the Department.

WORKERS' COMPENSATION HEARING LOSS CASES

Question: How many employees of the Norfolk Naval Shipyard who received hearing loss awards for 50% or greater hearing loss has the Hearing Loss Task Force in the Office of Workers' Compensation retested?

Answer: To date, the Hearing Loss Task Force has received retest reports on 125 of the 252 hearing loss cases received and reviewed in the retest program. A total of 301 cases have been identified for retesting. Of this total, 264 have been obtained by the Task Force which has completed initial review of 252 cases. Thirty-two of the 252 cases reviewed are unsuited for retesting for a number of reasons (eg. claimant deceased or ill, etc.). The remaining 95 cases have all been referred for retesting by board-certified otolarynogologists and the reports of these latest tests will be evaluated upon receipt.

Question: How many of these retested showed a smaller degree of hearing loss than previously awarded?

Answer: To date, fourteen of the retested cases have been completely reviewed by OWCP medical and claims personnel. Of these fourteen cases, twelve were found to have current hearing loss of a smaller degree than previously awarded.

Question: How many cases, so far, appear potentailly fraudulent?

Answer: On the basis of these most preliminary results, it would appear that twelve of fourteen cases reviewed are potentially fraudulent. In examining these cases in light of retest results, it is observed that determining fault in the awards that were made will be extremely difficult. While hearing acuity can be effectively reduced by malingering or fraud, these results must be reported (and endorsed) by an examining physician.

As more complete retest results become available, the Task Force will prepare an in-depth analysis of the findings and will make comprehensive recommendations regarding readjudication and recovery efforts.

WORKERS' COMPENSATION TASK FORCE RECOMMENDATIONS

Question: Two years ago, several task forces carefully studied the operations of the Labor Department's Workers' Compensation Programs -- Black Lung, Federal Employees', and Longshoremen's Act Compensation. Late in 1976 , these task forces produced a series of recommendations for both administrative and legislative changes which would improve these programs. What specific actions have you taken to implement these recommendations?

Answer: As a part of a comprehensive review of the Office of Workers' Compensation Programs begun in 1976, a Department of Labor task force made a total of 136 recommendations covering the operation of three programs administered by that office. These included 33 recommendations for improvement of the Federal Employees' Compensation Program, 31 for the Black Lung Benefits Program and 72 for the Longshore and Harbor Workers' Compensation Program. Implementation of the recommendations, which was begun in early 1977, was given top priority by the Department and was closely monitored to assure timely consideration and completion of all work projects associated with these recommendations. Detailed implementation plans were drawn up which included some 500 individual work products to be accomplished, and an executive director was appointed to oversee implementation. As a result, 92 of the original recommendations have been approved and implemented.

The implemented recommendations touch upon all aspects of the programs' operations. They represent substantive achievements such as the convening of panels of medical experts which recommended guidelines, subsequently incorporated into training manuals, for the adjudication of occupational disease claims; the issuance of a performance standards manual which constitutes a basis of standards upon which the performance of district offices are evaluated; and the development of a comprehensive nationwide training program for claims examiners. Over 580 incumbent, newly hired and senior claims examiners have already undergone appropriate formalized training as a result of this recommendation.

Some recommendations were pilot tested and found to be impracticable or otherwise proved to be infeasible and could not be finally approved for implementation. Other recommendations are legislative in nature or involve detailed study and analysis and are under active consideration by the Department.

FARMWORKERS

Question: Responsibility for the inspection of temporary farmworker housing rests with three Labor agencies -- the U.S. Employment Service, the Employment Standards Administration, and the Occupational Safety and Health Administration. Have any plans been made to place the responsibility for inspections totally under one of these agencies?

Answer: At present, the U.S. Employment Service, the Employment Standards Administration and the Occupational Safety and Health Administration are inspecting temporary farmworker housing pursuant to their statutory or regulatory responsibilities. There is no current plan to place the responsibility under a single agency. The extent of each agency's responsibility is different: The U.S. Employment Service has jurisdiction for pre-occupancy inspections of temporary labor housing provided for farmworkers pursuant to an Interstate Clearance Order; the Occupational Safety and Health Administration inspects occupied temporary labor camps or camps which will imminently be occupied; and the Employment Standards Administration has coverage only on camps owned or controlled by Farm Labor Contractors. There is, however, coordination among the three agencies to provide the greatest coverage and protection to farmworkers with minimal investigative overlap.

IMPACT OF MINIMUM WAGE INCREASE

Question: How many layoffs of low-wage workers have resulted from the January 1, 1979, minimum wage increase to $2.90 up from $2.65?

Answer: There is no indication at this time that the $2.90 minimum wage has resulted in layoffs of low-wage workers. The $2.65 minimum wage appeared to have no adverse employment effect. During 1978 employment increased by 3.3 million.

Question: Is there any evidence that employment might be cut substantially by attrition due to the impact of the minimum wage hike?

Answer: Such employment reductions have not been ascertainable from the aggregate data available. Moreover, some time will have to elapse before any conclusions can be drawn regarding the effects of the $2.90 minimum wage.

In the months following the increase in the minimum wage to $2.65 on January 1, 1978, employment increased considerably in the aggregate. During 1978, employment increased by 3.3 million and unemployment decreased by 175 thousand. There were employment gains in every major nonfarm industry and all major worker groups.

MANDATORY LISTING PROGRAM

Question: A recent GAO report discussed incomplete contractor listings being sent to State Employment Service Agencies, which hindered these agencies from identifying the period of time that a contractor should be submitting their job openings to the local Employment Service office. What action has the Office of Federal Contract Compliance taken to improve the quality of information being sent to the State Employment Service Agencies?

Answer: To improve the quality of the information being sent to SESAs it is essential that there be a marked improvement in the input data. OFCCP is no longer involved in this aspect of the program. The U.S. Employment Service has reassumed this responsibility and is taking the following actions:

- USES is in contact with the Wage and Hour Division with the objective of developing a communication to the procurement sections of other Federal agencies to improve the quality of their contract reporting to DOL.

- USES is establishing linkages with the Federal Procurement Data System which will broaden our coverage of Federal contracts.

- The Department of Defense contract information, complete with necessary dates, is now being furnished more fully than it was in the past.

The efforts shown above should result in improvement in the quality of the information furnished to the local employment service offices.

UNDOCUMENTED WORKERS

Question: Do you think the President's recent trip to Mexico will lead to more migration of Mexican aliens to this country?

Answer: No. The President's trip to Mexico reflects the need for a stronger working relationship with the Mexican government. Of course we have problems, among them the migration of people across the border. The trip is an important step in beginning to work out the solution to those problems. However, no agreements were reached during the President's trip that would in any way seem to lead to increased migration.

Question: From a manpower and jobs point of view, how serious is the problem of undocumented aliens now, and how much more serious could it get?

Answer: Of course we are concerned about the impact of undocumented aliens on labor markets, especially the low wage labor markets. And there is a raging debate in the country about exactly what the impact is. One's response to that question depends on whether one thinks the undocumented workers displace U.S. workers or whether they take jobs that U.S. workers are not willing to do. If you assume that the answer lies somewhere between those two alternatives then there is reason to believe that the aliens do have an impact on our labor market and of course that impact could increase.

Office of Departmental Management

STATEMENT OF ALFRED M. ZUCK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

ACCOMPANIED BY:

G. LAMBOLEY
S. SMITH
S. GORDON
A. HERMAN
C. CLAUSS
H. SAMUEL
B. POSNER
W. REISE
W. FURMAN
R. DEMARCO

Senator Eagleton. OK. We will get started with Mr. Zuck. His team is assembling. We will start off with his prepared statement.

You may proceed.

Mr. Zuck. Mr. Chairman, with your permission, I will submit the statement for the record, and just summarize it.

Senator Eagleton. Very good.

[The statements follow:]

STATEMENT OF ALFRED M. ZUCK

Mr. Chairman, and members of the Committee, I am pleased to appear before you this morning and to review with you our Fiscal Year 1980 budget request for two Departmental Management appropriations: Salaries and Expenses and Special Foreign Currency.

Departmental Management -- Salaries and Expenses

This appropriation provides funds for a wide variety of programs and organizations which do not logically fall within the program administrations of the Department. In addition to providing funds for executive direction and management functions of the Department, this appropriation provides funds for: the Office of Inspector General, the Women's Bureau, the President's Committee on Employment of the Handicapped, the Bureau of International Labor Affairs, the Solicitors' Office and the Minimum Wage Study Commission.

The overall goals of this appropriation are as diverse as the activities themselves. Principal goals of the appropriation include: protecting and promoting the interests of the American worker by formulating and overseeing the enforcement of legislation that establishes departmental programs; directing all programs and functions assigned to the Department of Labor; supporting enforcement of and promoting voluntary compliance with programs of the Department; administering the Trade Adjustment Assistance program; exercising leadership in all departmental administration and management programs and services; conducting formal hearings and rendering timely decisions under Acts within the jurisdiction of the Department of Labor; developing a climate in America conducive to maximum employment of physically handicapped, mentally retarded and mentally restored persons; developing policies to promote the welfare of wage-earning women; detecting, investigating and acting as a deterrent to fraud, program abuse, collusion and other statutory violations in departmental programs; and completing a study of the social, political and economic ramifications of the minimum wage, overtime and other requirements of the Fair Labor Standards Act of 1938.

The budget request for Fiscal Year 1980 for the Departmental Management Salaries and Expenses appropriation is $99,347,000 and 2,529 positions. This request represents an increase of $6,164,000 and 54 positions over the comparable base in Fiscal Year 1979. Included in the base are a net increase to our 1979 appropriation of $5,008,000 and 170 positions resulting from real and comparative transfers affecting the appropriation. During Fiscal Year 1979, enforcement efforts involving age discrimination and equal pay matters are being transferred to the Equal Employment Opportunity Commission. This transfer results in a total decrease of 67 positions and $1,651,000 to the 1979 comparable base. The responsibility for unfair labor practice procedures between Federal agencies and employee unions is being transferred to the Federal Labor Relations Authority, resulting in a reduction to the appropriation of 10 positions and $370,000. In Fiscal Year 1980, Departmental support of the Federal Information Center will no longer be required. As a result, the 1979 comparable base is reduced by $205,000. To provide for legal services and adjudicatory support for the Federal contract compliance program, 130 positions and $3,423,000 are transferred to this appropriation in 1979. A total of $25,000 and one position are transferred to this appropriation from the Internal Revenue Service,

Department of Treasury, for legal services in support of pension program enforcement. A transfer of three positions and $129,000 from the Department's consolidated working fund provides for coordination of the Department's services to migrant and rural farmworkers. Finally, a total of 113 positions and $3,657,000 are comparatively transferred from within the Department of Labor to this appropriation, which represents the consolidation of the fraud investigations program within the Office of Inspector General and the Department's participation in the Organized Crime Strike Force program.

The major portion of the requested increase of $6,164,000 is $4,596,000 representing the net cost of mandatory increases and decreases. These mandatory increased items totaling $6,094,000 include: 1) full year funding of new positions already authorized in Fiscal Year 1979; 2) the additional cost of within-grade promotion; 3) the cost of administratively uncontrollable overtime connected with the Department's participation in the Organized Crime Strike Force program; 4) the increased cost of contributions to the Federal Employees' Compensation Fund; 5) the cost of personnel compensation and benefits for two extra days of compensation in 1980; and 6) other miscellaneous items explained in detail in our summary of changes. Mandatory decreases of $1,498,000 reflect the one-time cost of establishing new positions and of establishing field office locations associated with the Black Lung Program in 1979, and reflect the termination of temporary staff which assisted in administering worker adjustment assistance under the Trade Act of 1974.

A total of $1,568,000 and 54 positions represent the net program increase requested for this appropriation in 1980. A total increase of $683,000 and 40 new positions are requested for the Benefits Review Board to act upon the 422% increase in the number of Black Lung appeals submitted to the Board for decision. This request reflects the delayed impact of the passage of the Act on the Benefits Review Board, and should be considered in the context of the increases provided to the Black Lung program in 1978 and to the Office of Administrative Law Judges in 1979. With approval of its requested increase, the Benefits Review Board will be able to hear and determine 588 appeals ready for decision, which will not be heard at the current level of staffing, bringing the total of cases decided in 1980 to 2,250. As a result of approving this request, the current inventory of Black Lung appeals will be kept to a minimum in advance of the bulk of appeals to be received beginning in Fiscal Year 1981. Adopting this requested level will result in a reduction of the projected Fiscal Year 1980 backlog by five months, and will reduce the Fiscal Year 1981 backlog of cases awaiting decision by approximately one year.

Four positions and $75,000 are requested for the Employees' Compensation Appeals Board to allow the Board to keep pace with the increasing number of appeals filed under the Federal Employees' Compensation Act. With approval of its requested increase, decisions will be made on 440 additional appeals filed under provisions of the Federal Employees' Compensation Act (FECA), and on 590 additional dispositions in Fiscal Year 1981. Without the additional positions, backlogs will increase to 15 months in Fiscal Year 1980 and to 27 months in 1981. By approving this request, backlogs will be held to within five months in 1980. A total caseload of 1,200 cases is expected to be received in 1980, a 20% increase over the 1979 level.

With approval of this request, the total output of the Board will match the incoming workload.

An additional 37 positions and $1,053,000 are requested in the newly created Office of Inspector General for fraud investigations to reduce the backlog of cases which currently cannot be opened or investigated. A total of $282,000 is requested to provide for training, equipment and increased ADP support of the Department of Labor audit and investigations program. Approval of this request will enable the Office of Inspector General to conduct 222 additional investigations, which represents an 87 percent increase over the number of investigations to be performed at the current staffing level. These additional investigations will increase the ability of the Department to detect, investigate and prosecute fraud and abuse in departmental programs. Approving this request will enable the Inspector General to initiate a pro-active investigations program. This program would designate program areas with a high potential for fraud and abuse and initiate investigations, even though no complaint or allegation has been received. The additional investigations will enable the Inspector General to follow up on the leads being developed through the Fraud Abuse and Prevention Surveys being put in place as well as following up on those allegations and complaints which originate from program officials and the public.

The program increases identified above are being partially offset by decreases of 27 positions. A total of 27 positions and $525,000 are reduced in executive, administrative and managerial programs as a result of increased efficiencies and consolidation of certain management functions. While no significant reduction in services will be felt by the Department, individual positions remaining in the organizations of the activities affected will have to assume increased responsibilities in order to absorb the functions of those positions eliminated.

Departmental Management -- Special Foreign Currency

The budget request for Special Foreign Currency in Fiscal Year 1980 totals $70,000, necessary to support travel to an overseas conference on international labor activities. Holding this conference contributes significantly to our efforts to strengthen the Labor Attache Corps and to make the Foreign Service more responsive to our needs. In addition to providing a forum for the discussion of key international and domestic labor issues, the overseas Foreign Service conference is essential in the Department's efforts to use the Foreign Service more effectively to meet its needs for information on foreign trade and investment that affect U. S. employment.

I appreciate the opportunity to appear before the Subcommittee today, and I and other officials of the Department whose organizations are funded by this appropriation will be happy to answer any questions.

STATEMENT OF HAROLD RUSSELL

Mr. Chairman, and members of the Committee, I am pleased to appear before you this afternoon to discuss the function of and the budget request for Fiscal Year 1980 for the President's Committee on Employment of the Handicapped. There are a couple of advantages of being a President's Committee such as ours. First, we have the capability of bringing together diverse elements of our society--management and labor, private sector and public volunteers and professionals--to stay keenly alert to problems facing handicapped people and to take joint action to try to do something about them. And second, not being encumbered by a top-heavy bureaucracy, we have the capacity to readjust our own priorities for action, without the constant need for knocking on your doors for more money.

With that, let me report that our proposed budget for Fiscal Year 1980 is $1,597,000, $19,000 less than the amount requested for Fiscal Year 1979. Yet, we are not really doing with less. We have made some administrative savings. We are passing them back to the country.

We have reordered our priorities for the coming year to keep pace with the rapidly changing world of handicapped affairs. I would like to list these priorities for you. First, we intend to bring together a variety of concerned people and organizations to deal with newly emerging problems: affirmative action; job preparation; industry-labor cooperation; others. Second, we intend to intensify our efforts to eliminate architectural and transportation barriers, aiming for an accessible America. Third, we hope to encourage greater coordination among Government agencies and the private sector, to achieve a blend of effort rather than disharmony. Fourth, we intend to step up our affirmative action activities to encourage greater national acceptance and to remain alert to problems which may arise. Fifth, we intend to carry forth our on-going mass media promotional efforts for jobs for handicapped persons. We find that over the years our media campaigns have built a lasting effectiveness. Sixth, we intend to continue our efforts to strengthen Governors' Committees on Employment of the Handicapped; to encourage the formation of more year-round local Committees; and to bring about an effective three-way partnership--Federal, State, and local. Seventh, we intend to encourage the growth of the handicapped consumer's movement in the United States. We are convinced this movement can bring added stature and respect for handicapped citizens. Eighth, we intend to focus much of our attention on our promising new Labor Committee, helping it develop goals and objectives mobilizing the labor movement in the service of handicapped people. Nineth, we intend to continue to examine current-day education and training programs for handicapped young people, to assure that they will be prepared for careers with good futures. And tenth, we intend to stay alert to changing national trends having an impact on handicapped citizens, bringing these to the attention of our constituencies and, if warranted, to the attention of the Congress and the Administration.

This is a large agenda for the year. We can fulfill it for two reasons. First, as I have indicated, we can reorder our own priorities to keep pace with the times. And second, these activities

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will be carried on by a blend of members of the President's Committee and our staff.

This blend is a key to whatever successes we have had. In closing, I would like to pay tribute to our dedicated members, to our equally dedicated staff, and to the spirit of cooperation that binds them together in the service of handicapped people. I appreciate the opportunity to appear before the Subcommittee today, and I will be happy to answer any questions which you may have.

BUDGET REQUEST OVERVIEW

Mr. ZUCK. This is the 1980 request for departmental management, "Salaries and expenses" appropriation, and also the "Special foreign currency" appropriation.

As you know, the "Departmental management" appropriation is something of a catchall, including many organizations of the Department which are not appropriately under any one of the other major operating administrations of the Department.

It includes all of the legal support of the Department, which is Office of Solicitor, the Bureau of International Labor Affairs, which operates the trade adjustment assistance program, and the Department's international activities, the Women's Bureau, and all of the adjudicatory functions of the Department.

It includes the President's Committee on the Employment of the Handicapped, the Minimum Wage Study Commission, and the executive direction and administration and management activities, as well as the Office of Inspector General.

Our request for 1980 is $99,347,000, which is an increase of just slightly over $6 million, of which $4.6 million are mandatory increases, and only $1.5 million are program increases.

The program increases fall in three areas: An additional 40 positions for the Benefits Review Board, to staff up to meet the increasing workload of the black lung cases that will be coming before it; an increase of 4 positions for the Employees Compensation Appeals Board, which hears appeals from Federal Employees Compensation Act cases; and an increase of 37 positions for the Office of the Inspector General to increase the fraud and investigation activities of the Department.

Senator EAGLETON. Where is that in your prepared statement, Mr. Zuck? What page?

Mr. ZUCK. Page 3. The major portion of the total increase of the $6.1 million I mentioned is the $4.6 million for mandatory changes and then the program increases begin on page 4.

We have a net increase of 54 positions, which is the difference between our total increase of 81, offset by a decrease of 27 positions.

Senator EAGLETON. That is page 5?

Mr. ZUCK. Yes. The Office of the Inspector General is on page 5.

Senator EAGLETON. That used to be called something else.

Mr. ZUCK. Yes, sir. It used to be called the Office of Special Investigations.

Not only do we have an increase of 37 positions and their related costs, but we are also requesting additional funds to increase the ADP support to assist in their audit and investigation activities.

Senator EAGLETON. I wrote the Inspector General bill. Therefore I have, obviously, a selfish interest. I think the personnel in the Office of the Inspector General will recoup many, many times their salary.

Do you really think that an additional 37 positions are enough to do the kind of job that I'm sure you all want to do with this Office of Inspector General?

Mr. ZUCK. I think, Mr. Chairman, we need to look at it in some perspective.

If we take a base of staffing available for this function in 1978, we have 212 positions.

In 1980, assuming the additional 37-position increase, we will have a staff of 392, which is almost a doubling of the staff devoted to audit and investigation activities.

I should hasten to add that that number includes 90 positions that are devoted exclusively to participation in the organized crime strike force program that we cooperate with the Department of Justice on.

So, if you exclude that 90 positions, we have roughly 300 positions available for audit and investigations of all of the Department of Labor programs.

Obviously, that is not a substantial increase, 37.

It is one of the few areas, however, in which the Department is asking for any increases at all in 1980, and it is one of the areas in which no reductions have been taken to meet the so-called Leach amendment reductions.

Senator EAGLETON. There was considerable disenchantment expressed at yesterday's hearing with respect to some of the CETA programs, the amount of broad waste, rip-offs, some of those negative words, in some of those CETA programs, based on a series of GAO reports, and one very recent one as well.

It seems to me—I used to be a prosecutor, and it just seems to me that when you are dealing with CETA programs, the cost of which now is between $10 and $11 billion, you are dealing with hundreds and hundreds of prime contractors, and I guess even thousands of subcontractors, and then tens of thousands of individuals, monitoring those programs to avoid abuse could pay dividends. It is going to save more than it is going to cost.

I know you can carry anything to an illogical ultimate. But I'm not convinced that 37 new positions, bearing in mind you've already got 90 on the ongoing Teamsters' task force, whether that is going to be nearly enough.

Mr. ZUCK. The 90 are dedicated to the organized crime strike force program. That is not part of the Teamsters. We've got a separate group on that.

Senator EAGLETON. Well, we are going to go into some of those matters a bit more thoroughly before this committee, to see the Inspector General and the like. We may want to talk to you further about it, as these hearings go on.

OK. I interrupted you.

SPECIAL FOREIGN CURRENCY

Mr. ZUCK. We have again a request of $70,000 for the special foreign currency appropriation, which is excess foreign currency for promoting our labor attaché relationship and increased participation of the Department in the labor attaché program, and the labor activities in foreign countries.

I think that is the overview, Mr. Chairman.

Senator EAGLETON. Ms. Clauss is here with you.

OFFICE OF THE SOLICITOR

I think Ms. Clauss, we added somewhere along the line some attorneys, because you were really running pretty shorthanded.

Ms. CLAUSS. Right.

Senator EAGLETON. Can you live with this year's budget request? Do you think you are adequately staffed? Because I'm a lawyer, I guess I'm sympathetic. But I think if you start chinching on the quality of legal work that the Department does, that can be penny-wise and pound-foolish.

Ms. CLAUSS. We were very appreciative of your help last year. We feel that with what we got last year, we are managing. This year we have seven attorneys assigned to the Teamsters' investigation full time.

So, we are focusing on our priority cases, and trying to settle and get rid of the nickel and dime cases. We seem to be doing much better than we were last year.

WOMEN'S BUREAU

Senator EAGLETON. Let's hear from the Women's Bureau.

Could you tell me a little bit how your work is coming along, and whether this year's staffing request is adequate to do the job with which you are charged?

Ms. HERMAN. This year's staffing request is essentially the same, Mr. Chairman. What we are attempting to do is target more effectively our resources within the Bureau.

Senator EAGLETON. What was your budget last year?

Mr. ZUCK. Seventy-nine positions, and $2.6 million this year, going to $2.8 million next year.

Senator EAGLETON. In 1979, the same number of positions?

Mr. ZUCK. The same number of positions. The only increase in costs are related to cover mandatory pay and other types of costs. So it is essentially a stable program.

EMPLOYMENT OF THE HANDICAPPED

Senator EAGLETON. All right. What about the handicapped?

Mr. ZUCK. Mr. Posner has that.

Mr. POSNER. I'm over here.

Mr. ZUCK. We have a separate statement by Mr. Russell. He is not here.

Mr. POSNER. Just briefly, Harold Russell sends his regrets that he couldn't be here today. He's tied up in the same storm we were.

We are operating at about the same budgetary level as last year, and we are becoming a little more effective in the use of the volunteer members of the President's committee.

We have worked out a system of blending them in with staff people so that we can create some progress with the same amount of staff.

Senator EAGLETON. What was your budget last year, and what is it this year?

Mr. POSNER. Last year was $1,616,000; this coming year, $1,597,000, a $19,000 decrease.

Senator EAGLETON. So there is a decrease.

With the Women's Bureau, the same number of people, it went up, and here is a decrease of $19,000.

Mr. POSNER. We have been able to find some methods of saving money, such as using third-class mail as opposed to first class for all of our publications.

It is surprising how much money can be saved. We have curtailed travel that is not necessary. Further, there was a decrease in our housekeeping assessment, our standard level user charges.

Senator EAGLETON. Do we have the same number of paid positions this year?

Mr. POSNER. Same number of paid positions, yes, sir.

WOMEN IN TRADITIONAL SKILL-DOMINATED AND CONSTRUCTION JOBS

Senator EAGLETON. The New York Times reported recently that a number of prominent women's organizations are concerned that the Labor Department is doing little to place women in traditional skill-dominated trade and construction jobs.

What specifically is being done to increase the participation of women in federally financed job training and apprenticeship programs?

Ms. HERMAN. Mr. Chairman, last year, the Department issued recommendations mandating the participation of women both in the construction industry and in the apprenticeship area; and the article in the New York Times was referring to an overall history of the last 5 years of the Department's performance in this area. The article did not really reflect the most recent actions that we have taken in the last 6 months in both of these areas.

We have seen an increase in the numbers of women entering into skilled apprenticeship occupations, as well as an increase in the construction industry.

We have retargeted most of our programs to mandate the participation of women across the board in all of our national programs, which is what the article again was specifically dealing with.

Also in the new CETA legislation, we have called for provision for the inclusion of nontraditional jobs for women, specifically citing again the apprenticeship area.

The article was in part correct from the perspective of performance of women to date in our programs, but it did not accurately reflect the changes that have taken place since the issuance of our new regulations.

Senator EAGLETON. Are you finding evidence that women really want to move into these skilled trades, in construction work?

Ms. HERMAN. Very definitely. We have instances, the west coast area, Seattle and California, where we've actually had to stop recruiting women for these areas, because there are too many on the waiting list.

TRADE ACT OF 1974

Senator EAGLETON. A question about the Trade Act of 1974, and specifically the delays in processing cases.

Mr. ZUCK. That is Mr. Samuel.

Senator EAGLETON. Is the 60-day statutory time frame for making adjustment assistance on worker participation about reasonable?

Mr. SAMUEL. We've about reached it, yes, Mr. Chairman.

Senator EAGLETON. How long does it take the Labor Department to make a petition determination?

Mr. SAMUEL. Approximately 60 days now. There are some that are going to take longer because of lack of cooperation with firms, and we have to issue subpenas and so forth.

Senator EAGLETON. On adjustment assistance, I was out in Missouri, and it was down at the iron ore region—this is Pea Ridge Mine in Sullivan, Mo. This is the second time I've been there.

What is the limit on educational benefits under trade adjustment assistance? Is it a year?

Mr. SAMUEL. Yes, sir; a year of training.

Senator EAGLETON. A year of training.

Two or three of the fellows knew where I was going to have this meeting, and they came up. These gentlemen were in a 2-year program. I wish I could recall the specifics of it. I know it is a program that is being conducted at the nearby junior college there in Franklin County.

They say, well, for many a 1-year retraining program is fine—I forget the specialty, I wish I could recall it, but I can't.

What would be the costs involved, or what would you say if we thought of broadening that for those who wanted a 2-year training program, or would you view that as goldbricking?

Mr. FOOKS. People in training get 26 additional weeks. Training could last 2 years, but they can only get allowances for 78 weeks.

CASH ALLOWANCES PAID OUT UNDER THE TRADE ACT OF 1974

Senator EAGLETON. Yes. The cash allowance is 1½ years.

What did we pay out in adjustment assistance cash allowances last year?

Mr. FOOKS. Last year about $260 million.

Senator EAGLETON. $260 million. Have you got the figures from earlier years?

Mr. FOOKS. It has been going up.

Mr. SAMUEL. A total of $600 million for not quite 4 years.

Senator EAGLETON. I see. What should Congress be concluding from that? That Mr. Meany is right, that we ought to go to protectionism in this country, or whatever?

Mr. SAMUEL. No. I think to a certain extent, Senator, it is a product of our Outreach program. More and more workers are becoming aware of the program, and are taking advantage of it.

I'm not sure there is any conclusion that can be taken beyond that.

Senator EAGLETON. Give me the figures for the record; how much has been paid out year by year in tradeout assistance, say——

Mr. SAMUEL. It started in April 1975.

Senator EAGLETON. That was the first year?

Mr. SAMUEL. That is the present system. We had a system going back to 1962, which never operated very well.

Senator EAGLETON. It never operated very well.

Mr. SAMUEL. No. It was amended in the 1974 Trade Act.

Senator EAGLETON. All right. Give me the annual figures from 1975 onward.

[The information follows:]

1975	$13,700,000
1976	69,900,000
1976 transitional quarter	34,000,000
1977	150,000,000
1978	258,300,000
1979	265,000,000
1980	300,000,000

Senator EAGLETON. Again, on the trade adjustment assistance, what percentage of certified workers have been receiving training, job search, and job relocation allowance to facilitate their reemployment?

Mr. SAMUEL. It runs less than 10 percent of the total number of workers who have received benefits.

Senator EAGLETON. Less than 10 percent?

Mr. SAMUEL. Yes.

CARTER PROGRAMS FOR SERVING HANDICAPPED PERSONS

Senator EAGLETON. This relates to the handicapped, and is a bit broader than your particular scope, sir, but I'll ask it.

Would you care to comment on the adequacy of the Carter budget in overall, the program serving the handicapped specifically? We noted no increases included for the architectural barriers compliance board, even though the legislation was enacted last year, expanding the scope of the board.

Also, there appears to be no money requested to set up either the newly authorized National Institute on the Handicapped, or the National Council on the Handicapped.

Furthermore, the number of people receiving vocational rehabilitation services is expected to decline by 15,000 in fiscal 1980.

And finally, of course, your budget, as we previously discussed, declines by some $19,000.

Mr. POSNER. Sir, I would be more comfortable talking about my budget than the Carter administration.

I realize what the question stems from. It is the new rehabilitation amendments of 1978 that created some bold, new programs; and the whole question comes down to the fact, will they be funded this coming year? The question also stems from a letter that Jack Anderson published in his column about some arrangement made to minimize the funding for this year.

The entire President's committee is pretty much a bystander in all this. We are not directly involved in it. We don't administer the programs, and we are not that deeply involved.

All we really know about all that is what we see in the newspapers. I suppose that is sort of an around about way of saying that I'm just not competent to answer that question, sir.

Senator EAGLETON. I think you answered it very well.

Mr. POSNER. I didn't say anything.

Senator EAGLETON. That is all I have. We have some additional questions we will submit to you.

I do ask you, Mr. Zuck, to take—and not immediately, because we will be at this awhile—but I would like you folks to take a real, hard look at the Inspector General, to see if you are really satisfied that 30-some-odd new positions will begin to do the job.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

DISPLACED HOMEMAKER PROGRAMS

Question: What role does the Women's Bureau play with respect to development of Displaced Homemaker programs under the Comprehensive Employment and Training Act?

Answer: As indicated in the May 15 report of the Committee on Human Resources to accompany the Comprehensive Employment and Training Act Amendments of 1978, Assistant Secretary Green stated that a joint task force would be established, to be composed of representatives of the Employment and Training Administration and the Women's Bureau. The task force has been operating under the leadership of the Women's Bureau and is responsible for development of all policy papers, program guidelines, funding solicitations, field instructions and other materials necessary to the implementation of these programs. Once these materials have been developed, primary responsibility for program administration and oversight will be assigned to the Employment and Training Administration, which will maintain a continuing liaison with the Women's Bureau.

GAO REPORT ON DOL EFFORTS TO DETECT FRAUD

Question: The Department of Labor was one of several agencies which GAO found, in a September 1978 report, had not acted aggressively to detect fraud in their programs and whose practices were inadequate to identify potential fraud. Do you disagree with that finding as it relates to the Department of Labor?

Answer: While the Department did not wholly agree with the GAO finding that it had not acted aggressively to detect fraud in its programs and felt its practices were adequate to identify potential fraud, it has implemented the recommendations of the GAO report. The GAO report made five specific recommendations for the Department of Labor to improve its system for preventing and detecting fraud and abuse in Departmental programs and practices. The Department concurred with each of the recommendations and has taken actions to correct the situations which existed when the report was prepared in early 1978. The establishment of the Office of Inspector General in September 1978 has elevated fraud identification to a high agency priority and provided the Department with an efficient instrument with which to prevent and detect further program abuses.

DOL FRAUD AND ABUSE PLAN

Question: In a December 13, 1978 memorandum to the Heads of all Executive Departments and Agencies, President Carter announced his intention to eliminate waste, fraud and error from Federal programs and directed that they submit to OMB by January 31, 1979 a comprehensive plan for the accomplishment

of this objective. The plan was to include an analysis of the Agency's audit and investigative resources and capacity to prevent and deal with waste, fraud and error and its planned approach to the utilization of such resources for this purpose. Has the Department of Labor submitted such a plan? If not, why? If so, would you briefly outline it for us?

Answer: The Department of Labor has submited a comprehensive plan for eliminating waste, fraud and error in Departmental programs to OMB in response to the December 13, 1978 request. This analysis accounted for OIG's total staffing level of 355. Currently, these positions are allocated in the following manner: 90 for Strike Force Activities, 9 in ADP Evaluations, 23 in OIG Executive Direction and Administration, 158 in Audit and 75 in Fraud and Integrity Investigations. Major OIG initiatives now underway include: (1) the joint audit and investigations Fraud and Abuse Prevention Surveys (FAPS), designed to provide early detection and correction of grantee weaknesses in order to prevent possible subsequent fraud and abuse; (2) increased participation with the Department of Justice in the Organized Crime Strike Force Program; (3) implementation of the newly drafted CETA regulations requiring joint audits of grantees; and (4) the establishment of an incident reporting system to immediately bring problems to the attention of the Inspector General.

WORKERS' COMPENSATION FRAUD AND ABUSE

Question: What resources is the Labor Department devoting to investigation and pursuit of fraud and abuse in the various workers' compensation programs it administers? Is this an increase over previous efforts?

Answer: In 1980, 36 staff-years out of a total request of 112 positions will be available to the investigation and pursuit of fraud and abuse in the various workers' compensation programs administered by the Department of Labor. The approximate cost of these 36 staff-years is $1,218,000. This represents an increase of an estimated 14 staff-years and an additional $398,000 in resources over the FY 1979 level. Currently, the Office of Inspector General has 22 staff-years and $820,000 available to conduct fraud investigations in various workers' compensation programs. The actual assignment of cases is determined by the relative urgency of each case on case-by-case basis. The relative urgency may be determined by such as the magnitude of the fraud, court imposed time limitations and the need to coordinate DOL effors with other involved law enforcement agencies. With in addition of 37 fraud investigators in FY 1980, the Office of Inspector General will be able to substantially augment its fraud and abuse detection and deterrence efforts in the workers' compensation programs.

OUTRIGHT FRAUD

Question: How many cases of outright CETA fraud are pending in the Labor Department, involving what total amount of money? Would it be fair to say the bulk of CETA problems involve waste and abuse - not outright fraud?

Answer: Currently the Office of Inspector General is investigating 239 cases of CETA fraud totaling an estimated $9.4 million. In the brief time that OIG has been in operation, a substantial number of CETA fraud cases have been opened and are being investigated. The recently initiated Fraud and Abuse Prevention Surveys (FAPS), which have been designed to review selected grantees to determine the extent of potential fraud and abuse, should enable OIG, within the next year, to more accurately assess the relative proportion of each. At this time the Office of Inspector General does not feel that enough information is available to make valid assumptions on the degree of outright fraud versus waste and abuse.

GAO TRADE REPORT

Question: Labor agreed with a GAO report which indicated that workers who receive Supplemental Unemployment Benefits (SUB) from their employers and also receive uemployment insurance and trade adjustment assistance could receive a total amount in excess of their former new wages. However, Labor believed that, before Congress should consider legislative amendments to correct this program, further analysis was needed. Has Labor gained any further insight or obtained information which might be helpful in correcting this problem?

Answer: We have no evidence that workers receiving supplemental unemployment benefits do receive a combination of public and private benefits that exceeds net wages. The theoretical possibility that this might occur is present, but no concentrated study of the issue and its dimensions has been undertaken by the Department.

COORDINATION WITH COMMERCE TRADE PROGRAM

Question: What has Labor done to promote the coordination of certification efforts and exchange of information with Department of Commerce?

Answer: The Labor and Commerce Departments routinely share the results of trade adjustment assistance certification investigations when firms agree to the release and sharing of proprietary information. Labor utilizes Commerce caseload information for program outreach purposes as well. Through the Commerce Labor Adjustment Action Committee, both agencies seek ways to improve the scope and effectiveness of program implementation.

TRADE BENEFITS

Question: How long, on the average, do workers receive trade adjustment cash benefits? What is the average trade adjustment assistance cash benefit?

Answer: Based on experience in Fiscal Year 1978, the average weekly payment was $68 for 24.4 weeks, or a total of $1,649 per claimant.

SUBCOMMITTEE RECESS

Senator EAGLETON. So that will conclude today's hearings. We will meet tomorrow at 10:30 a.m., and we will hear from Secretary Marshall, who will give us an overview of the entire Department.

[Whereupon, at 3:40 p.m., Thursday, February 22, the subcommittee was recessed, to reconvene at 10:30 a.m., Friday, February 23.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1980

FRIDAY, FEBRUARY 23, 1979

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

The subcommittee met at 10:30 a.m. in room S-128, the Capitol, Senator Warren G. Magnuson (chairman) presiding.

Present: Senators Magnuson, Eagleton, and Burdick.

DEPARTMENT OF LABOR

STATEMENT OF RAY MARSHALL, SECRETARY OF LABOR

BUDGET REQUEST

Senator MAGNUSON. The subcommittee will come to order. Today winds up a week of hearings on the fiscal year 1980 budget request of the Department of Labor, including fiscal year 1979 supplementals.

During this week we have heard testimony from Labor Department officials and the details of each appropriation request. Now we will have the opportunity to put all these pieces together with Secretary Marshall presenting an overview statement.

Some Senators may want to question Secretary Marshall about unresolved issues raised earlier in the week.

Mr. Secretary, we welcome you. Please go ahead with your prepared statement.

Secretary MARSHALL. Mr. Chairman and members of the subcommittee: I welcome this opportunity to present to you an overview of the Department of Labor appropriations request for fiscal year 1980.

The year 1980 will be a year of austerity for all Federal programs. The Labor Department budget reflects these fiscal realities. But it also reflects two important principles. The Carter administration has no intention of reducing its program for the poor, the disadvantaged and the unemployed in order to pare the Federal deficit. Our budget also reflects the determination by this administration to continue its fight against unemployment.

Perhaps the most important story in our budget is that we have not reduced the number of jobs under Federal programs designed to lessen unemployment. Employment and training programs will create about 1.5 million employment and training opportunities in

1979. Spending for the new CETA program will decline by $700 million in fiscal year 1980, but the decrease in supported jobs will be offset by the targeted employment tax credit. In the summer youth program we will make 15 years of age rather than 14 the starting point for participation and reduce the total funding for this program.

EMPLOYMENT AND TRAINING

You will also note that our jobs programs place an increasing reliance on the private sector. This is reflected both in the targeted employment tax credit and in our expansion of the private sector initiative. The private sector initiative, which was authorized by the new CETA legislation in October, is the centerpiece of the administration's efforts to swing the employment and training pendulum back to private sector job creation.

Last year when I appeared before you I requested full funding for this program, but as a result of the enactment of a continuing resolution rather than a regular appropriation, this new program could not be funded at the beginning of fiscal year 1979. Therefore, the administration has requested a $400 million supplemental to fund this important program.

I hope that the committee will favorably consider these important initiatives as a vital link in the new CETA program. Both of these important programs will provide incentives for private employers to hire the disadvantaged.

Furthermore, we will continue our commitment to those groups who face particular disadvantages in the labor market. These include handicapped persons, minorities, women, youth, public assistance recipients and others for whom we have special concerns.

As a quick look at our budget will indicate, funding for the Department's inspection and enforcement programs remains relatively unchanged between 1979 and 1980.

We have taken moves to improve the management of all of our programs. Major emphasis is being placed on the elimination of fraud and abuse in departmental programs.

The Department's budget reflects the President's commitment to reduce Federal employment and the mandated end-of-year employment levels contained in the Civil Service Reform Act of 1978.

I have attached to this statement a summarized account of each Department of Labor agency's request. I would be glad to submit it for the record or go over it with you as you see fit.

Senator MAGNUSON. It will be included in the record.

[The information follows:]

ATTACHMENT

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

The Department is committed to the employment goals of the Humphrey-Hawkins legislation and is increasing the share of Public Service Employment jobs aimed at the structurally unemployed with an increased emphasis on training and on youth programs aimed at structural unemployment. The budget also requests supplemental budget authority in fiscal 1979 of $400 million for the Private Sector Program which is expected to create 80,000 new training opportunities in the private sector during the life of the program. This major new initiative will help reorient the CETA system to the private sector. The Targeted Employment Tax Credit will provide private sector employment opportunities for disadvantaged youth and other structurally unemployed groups. It is estimated that this tax credit will create up to 100,000 additional jobs in 1980.

We are requesting $8.9 billion for Public Service Employment, youth programs and the rest of CETA. This represents a net decrease of $1.7 billion from 1979. However, the number of full-time CETA jobs, when combined with jobs created by the Targeted Employment Tax Credit, will approximate the average 1979 level.

Funding for Public Service Employment will decrease by $1.3 billion as the number of positions in titles VI and IID combined diminish from 625,000 to 467,000 by the end of fiscal 1980. The Administration will consider changing its Public Service Employment request if unemployment departs significantly from the projected unemployment rate of 6.2. percent.

The total number of slots created on average between the Targeted Employment Tax Credit and Public Service Employment combined in fiscal 1980 will be close to the average in FY 1979. Funding for programs under title II A, B, & C will increase by enough to maintain the number of slots constant at 424,000. Budget authority for the programs previously authorized under the Youth Employment and Demonstration Project Act (YEDPA) will be increased from $931 million to $1.1 billion. The number of slots will increase by almost 10,000 with shifts to less costly and more highly targeted programs.

Job Corps expansion continues as scheduled and will reach 44,000 slots in fiscal 1980. The Summer Youth Program will be reduced to 750,000 slots, a decrease of 250,000 from FY 1979, and 14 year olds will be made ineligible for the program. A requested deferral of $122 million from FY 1979 to FY 1980 will maintain the FY 1979 program at the 1 million job level achieved in 1978 and results in a FY 1980 new budget authority need of $533 million.

Community Service Employment for Older Americans, a program of part-time job opportunities for Americans aged 55 and over, will continue at the current level of 47,500 slots. The request will fund the program through June 30, 1981. In addition a fiscal year 1979 supplemental of $8.9 million is requested to offset the minimum wage increase.

Our budget reflects an increase of $130 million in spending for Federal Unemployment Benefits and Allowance (FUBA), reflecting increased payments. These funds provide direct compensation for former Federal workers, military veterans and employees adversely affected by imports.

The Administration also plans to send up revised welfare reform legislation which is projected to cost an additional $5.5 billion in fiscal 1982 when fully implemented. The request for the CETA includes funding for demonstration of the Administration's welfare reform proposal. Grants to States for administration of unemployment insurance and employment services will total $1.8 billion. Employment Service staffing in the State agencies will continue at the current level of 30,000.

LABOR-MANAGEMENT SERVICES ADMINISTRATION (LMSA)

The majority of LMSA resources will be devoted to administration and enforcement of the Employee Retirement Income Security Act of 1974 (ERISA), and the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959, as amended and Section 7120 of the Civil Service Reform Act of 1978.

The Federal Labor Management Relations activity was recently transferred to a new agency, the Federal Labor Relations Authority (FLRA). One hundred eighty-one positions and $6,166,000 were transferred from the Department of Labor to the new authority consistent with the President's Reorganization Plan No. 2.

EMPLOYMENT STANDARDS ADMINISTRATION (ESA)

Efforts to protect the wages of American workers will emphasize the improvement of responses to worker complaints under the Fair Labor Standards Act, Service Contract Act, and Davis-Bacon Act. Over 700,000 workers are expected to be directly aided as a result of these enforcement programs. An equal number of farm workers will be protected as a result of the Department's enforcement of the Farm Labor Contractor Registration Act.

The Employment Standards Administration will continue to emphasize the Administration's efforts aimed at employers of undocumented workers through enforcement among such employers of the Fair Labor Standards Act (FLSA) and the Farm Labor Contractor Registration Act (FLCRA). Overall resources available for FLSA enforcement will be slightly below the FY 1979 level.

The recently consolidated Federal Contract Compliance program will provide the basis for improved and unified administration of anti-discrimination and affirmative action activities with respect to Federal contractors. This program is expected to be fully staffed and operational in FY 1980 with 1,455 employees and a budget of $50 million. Responsibility for the administration and enforcement of the Equal Pay Act and Age Discrimination in Employment Act will be transferred out of the Department in July 1979 to the Equal Employment Opportunity Commission. A total of 239 program plus selected support positions will be included in the transfer.

A position decrease is requested in the Black Lung and FLSA programs. The anticipated level of claims and complaints has not materialized.

Monies collected from the coal mine industry in the form of an excise tax on mined coal and reimbursements for identified responsible mine operators are not anticipated to be adequate to meet Black Lung claims. Thus we are estimating that an advance of more than $200 million to the Black Lung Disability Trust Fund will be required to meet anticipated claims in 1980.

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We are requesting a fiscal year 1979 supplemental of $8.2 million for administation of Workers' Compensation Programs. These resources are necessary to effectively service the incoming workload, reduce the pending inventory and improve the overall quality of the program.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Enforcement of occupational safety and health standards will benefit from an anticipated increase in the number of inspections conducted, targeted to health and safety problems in high hazard industries, with particular emphasis on serious occupational health hazards.

The budget request provides for funding new positions added by Congress in Fiscal Year 1979 for enforcement and for continuing program efforts in such areas as simplifying safety standards, compliance officer training, and technical support.

The Occupational Safety and Health Administration's "New Directions" program of training grants for labor unions, trade associations, educational institutions, and other non-profit organizations will be continued with an additional $3 million requested for developmental grants. In all, grant funds totaling $11 million will be requested to assist nonprofit organizations in developing their institutional capabilities for providing occupational safety and health training for workers and employers.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

The Mine Safety and Health Administration request for Fiscal Year 1980 is $131.7 million and 3,663 positions. This represents a net increase of $6.2 million over the Fiscal Year 1979 level.

In FY 1979 considerable emphasis was placed on approval of the mandated training plans, as a result, 22,000 such plans were reviewed and approved. In FY 1980 the emphasis will shift to monitoring of approved plans and technical assistance. Therefore, employment in FY 1980 is expected to be 60 below the level of the preceding year. 1,600 new plans will be approved and 5,500 reapprovals will be processed. In addition, the funds requested will enable MSHA to conduct over

42,000 mine inspections. The request also includes $6 million for grants to States for training.

BUREAU OF LABOR STATISTICS (BLS)

BLS is the major source of data for employers, employee organizations, local and Federal Government planners and advisors. Improvement to BLS programs focusing on key economic indicators will continue to receive major emphasis.

The revision to measures of industrial price change will be continued, with an additional 60 positions and $1.9 million requested for the Producer Price Index. This revision program will result in significant improvements in this statistical series which is used extensively by the Council of Economic Advisers and other economic policy-making organizations in the Federal Government.

A modest expansion of the coverage of the international price indexes is requested. Ten additional positions and $300,000 would be utilized to expand coverage of export and import prices.

DEPARTMENTAL MANAGEMENT (DM)

Major emphasis is being placed on the elimination of fraud and abuse in Departmental programs. To accomplish this objective, an additional 37 criminal investigator positions are being requested for the Office of the Inspector General, an organization newly established in the Department in FY 1979. These new investigators will enable the Department to conduct an additional 222 fraud investigations, representing an increase of 87 percent over the level of investigations conducted in FY 1979. The increased number of investigators will also serve as a substantial deterrent to future fraud and abuse within programs administered by the Department of Labor.

Our request includes a total of 90 professional criminal investigators to be furnished to the Organized Crime Strike Force Program being coordinated by the Department of Justice. These positions will fully support the Department's commitment to the Strike Force in FY 1980. The remaining increase of 44 positions for Departmental Management is directed toward the adjudication activities increased workload for Black Lung benefits and Federal Employee Compensation Act programs.

NUMBER OF JOBS UNDER FEDERAL PROGRAMS

Secretary MARSHALL. Thank you. I will be happy to try to answer questions now.

Senator MAGNUSON. Now, there is just one question I wanted to ask: You said in the beginning of your statement that the most important story is that you haven't reduced the number of jobs under the Federal programs designed to lessen unemployment.

According to the testimony we have received from CETA, there would be less employment.

Secretary MARSHALL. That's right, Mr. Chairman. Fewer jobs under CETA, but there would be more jobs in the private sector, the target. We have a few target jobs that we think will compensate for the $700 million reduction in public service jobs in the CETA program.

Senator MAGNUSON. But we don't know?

Secretary MARSHALL. No, we don't know.

Senator MAGNUSON. You are just estimating?

Secretary MARSHALL. Yes.

Senator MAGNUSON. Now, Secretary Green testified—and correct me if I'm wrong—we had $1 billion in the budget that will not be extended in 1980 based upon some ups and downs in unemployment.

Secretary MARSHALL. No; the carryover—let me explain this ——

Senator MAGNUSON. Yes; I guess carryover would be a better term.

Secretary MARSHALL. There is a normal carryover, of course, in a program that lasts for a period of time, so that the expected carryover will be about $400 million. And this comes about because of the decline in the CETA program, titles II and VI, during the fall and winter when there was a great deal of uncertainty among the prime sponsors about future programs. At the same time, we were shifting to a new program.

Senator MAGNUSON. Well, we were told on Wednesday it would be over $1 billion.

Secretary MARSHALL. Yes; but some carryover is expected and normal. Our request was lessened by the $460 million before the President sent up his budget; we were aware of some but not all of the decline.

So we took most, more than half, of that money out before the request came.

Senator MAGNUSON. Well, this committee is not in the habit, you know—we might occasionally, but it is not in the habit of appropriating $1 billion just to be there to play around with. We appropriate money that is going to extend from fiscal year to fiscal year.

SUPPLEMENTALS

Now, if you need more money, you come back up here. Supplementals come up here. Last year I think the supplemental requests darn near equaled the regular appropriations, and we are trying to balance this budget too.

We just don't appropriate money that is just going to sit there. Now, I know you have to have some fluidness in the carryover. I understand that, but not $2 billion.

Mr. PACKER. Mr. Chairman, we do not believe that the carryover will affect outlays in 1980. Therefore, the deficit in 1980—the problem that we run into is dramatically demonstrated in this last year. Generally speaking, when a CETA program sponsor makes a commitment to an individual, that commitment is for a year's period.

When it gets down to July, August, and September, unless he has some money in the bank, so to speak, to keep that person for a year, he is reluctant to do any hiring. I think the parallel in the education program is a good one which——

Senator MAGNUSON. Yes; but you can at least figure out how many of those people or instances are going to occur at the end of the fiscal year. You can figure that out and then you can come up here. We will probably have three or four supplemental requests. It looks like we don't need even the 400. Maybe we only need two. Maybe you'll need six.

Mr. PACKER. Well, we have made analyses. In fact we are on the low side now in my analysis. Our analysis is to give prime sponsors really full swing to hire right near the end of the fall of the year. And the amount that we have here is considerably less than that. The CETA system is one in which there are multilevels of planning; that is, the Federal Government doesn't plan the project in many cases. The subcontractors plan the projects. So they have to begin planning in the spring for people to begin to put the projects together.

APPROPRIATING FUNDS

Senator MAGNUSON. I agree with you, but that doesn't mean we have to appropriate the money until you really spend it or need it. And this is what we are talking about. We had the same problem last year and the year before last on medicaid. They estimated the same thing. And it turned out that a year ago they were $1.2 billion off. But we appropriated the money and we are going to appropriate the money when you need it.

You only come to the cashier in the bank when you need the money. You don't say, give me all your money because I may use it this next year and hold it there. We haven't got that much around here.

Secretary MARSHALL. Well, ordinarily you can make a better prediction about how much you are going to have, but we have an unusual situation. And second, it is very difficult for the prime sponsors to plan.

Chairman MAGNUSON. And you did have a substantial number of changes in the CETA bill, I understand, and that came late. The Senator from Missouri sat around here and had hearings, waiting for the legislative committee to do something about the CETA bill.

But you take a look at that because we're going to see whether your prediction is better than last year.

INCREASE IN UNIT COST—PUBLIC SERVICE JOBS

Now, one thing I want to ask how much has the unit cost of a public service job increased between fiscal 1979 and 1980?

Secretary MARSHALL. $300, from $9,200 to $9,500. This is our estimate.

Chairman MAGNUSON. Now, in the summer youth program, what was the figure?

Well, we heard yesterday—what was that figure we had? $93 to $98 hundred? Can we get those exact figures on both those programs? You estimated it per year.

Mr. PACKER. Yes, we can get that.

Mr. ZUCK. I think the average is something like $790 for that 9 week period.

Chairman MAGNUSON. But there wasn't any great substantial increase?

Secretary MARSHALL. No.

Chairman MAGNUSON. Your estimate this year isn't so high, considering inflation and costs.

Mr. ZUCK. Minimum wage went up about 300 and——

Chairman MAGNUSON. Yes, it went up about 330, which is due to the minimum wage; is that correct?

Mr. ZUCK. Yes.

EMPLOYMENT TAX CREDIT

Chairman MAGNUSON. Now, the other question I wanted to ask you: what is the target of the employment tax credit? Explain that in lay language to us here.

Secretary MARSHALL. It's a tax credit up to $3,000 the first year and up to $1,500 the second year for employers who hire a worker in the target categories. The worker obtains a voucher, takes it to the employer, and the employer then gets the tax credit.

Chairman MAGNUSON. And he gets that on his income tax?

Secretary MARSHALL. Yes.

Mr. PACKER. It has to be in a trade. It cannot be for domestic services. But it can be for a nonincorporated entity. It only has to be in a trade. The trade is business, so that it is not for domestic services. But it does apply to nonincorporated individuals.

Chairman MAGNUSON. Yes, 98 percent would be corporations, though?

Mr. PACKER. Right.

Chairman MAGNUSON. Now, you said you examined full funding for the program, but as a result of the continuing resolution rather than a regular appropriation, this new program would not be funded at the beginning of the fiscal year? Why not?

Secretary MARSHALL. Because the continuing resolutions didn't provide for new programs. It was a new program.

Mr. ZUCK. It preceded the enactment of the legislation.

Chairman MAGNUSON. All right. We had a lot of trouble, I know that.

All right, I have a question here which my colleague is very interested in.

YOUNG ADULT CONSERVATION CORPS

Why did you cut the youth conservation program in half in the budget? Well, let's see—you're down from 14,600 years of service, citing a high of 10,000 per unit cost. Why does it remain so high?

Secretary MARSHALL. Well, this is one of the highest cost programs we have, the Young Adult Conservation Corps.

In our desire to keep the budget down for our disadvantaged youth, we kept to the total expenditure. We increased it slightly for the youth program, but cut back on some of those programs that were more expensive. This is the most expensive program we have.

Chairman MAGNUSON. Well, I'll tell you, it is very effective.

Secretary MARSHALL. Yes, it would be a good program to expand.

Chairman MAGNUSON. That program is very, very effective. People look upon it as sort of a continuation of the old CCC camps, and that was one of the fine accomplishments of the New Deal. And it has been very effective in training of juvenile delinquents.

Secretary MARSHALL. As a job corps, it does more with the disadvantaged than the Young Adult Conservation Corps. And the judgment was that ——

Chairman MAGNUSON. I do agree. I think the cost is too high per capita. It seems like it should not be that high.

All right, excuse me, you go ahead.

Senator EAGLETON. I yield at this time to Senator Burdick, becaue I have an abundance of questions.

INTERNAL REORGANIZATION

Senator BURDICK. Thank you. Welcome to the committee, Mr. Secretary.

I have heard informally that your department is considering an internal reorganization of the employment and training administration which administers programs for older workers' employment, American Indians, and migrant workers. Can you tell me of your plans for these programs and which, if any, may be transferred to other agencies?

Secretary MARSHALL. There is a plan underway in the National Office, but no decisions have been made about the plan to reorganize the Employment Training Administration.

We haven't developed a final plan. Suggestions have been made, and they've been out for comment. But we have not made the final decision yet.

Senator BURDICK. You are in the thinking and talking stages?

Secretary MARSHALL. Yes.

FUNDS TO MIGRANT AND SEASONAL FARMWORKERS

Senator BURDICK. Last year your Department estimated that approximately 60 percent of funds provided to migrant and seasonal farmworkers under section 303 of CETA are used directly for job training and related activities, and the remaining 40 percent for supportive services.

Can you identify for us the type of supportive services provided?

I am particular interested in the level of support for farmworker housing assistance.

And for the record, please describe what types of housing services are being provided by the migrant programs and tell us how much money is being spent for this in the current fiscal year.

Secretary MARSHALL. Mr. Lamond Godwin is here, who is the administrator of the office of national programs. Lamond, can you answer that?

Mr. GODWIN. Yes; the first question, which deals with how much is provided for housing assistance, supportive service of the 40 percent, that includes a wide range of activities, ranging from day care to educational assistance, tutoring, assisting people to get GEO degrees, transportation assistance for people who are stranded, health care for people who need medical treatment, a wide range of similar services.

HOUSING SERVICES

Senator BURDICK. What about the housing services?

Mr. GODWIN. We provide right now roughly—we spend roughly $8 million on special housing programs that we fund through national grants. We spend roughly twice that much through the local State programs administered by the grantees.

Senator BURDICK. Is this just temporary housing, or what is it?

Mr. GODWIN. No; we have through an interagency agreement with the Farmers Home Administration—we initiated economic stimulation programs, a special effort to create jobs for migrant and seasonal farmworkers who would be trained and employed under the rehabilitation of publicly owned farm camps.

And as part of that activity, we provided 600 work experience positions in the offices. So that other objective was to create jobs and training opportunities for unemployed people to enable these unemployed farmworkers to be put to work, rehabilitating deteriorated publicly owned housing camps. And at the same time we placed in FHA offices 600 people who were trained as loan processors so they could move the paperwork and at the end of their training, an agreement was that FHA would pick them up. That was the newest of our housing activities.

We also fund national organizations to provide technical assistance to local grantees who want to undertake various types of housing projects.

Senator BURDICK. Can you provide for this committee, now or at some future time—a comparison of the proportionate level of farmworker housing assistance currently being provided by the Department of Labor with the level of support for migrant housing activities provided by the Office of Economic Opportunity before responsibility for the program was transfered to DOL?

Would you say that the housing needs of migrant and seasonal farmworkers and their families have a higher or lower priority now than in previous years?

Would you anticipate your commitment to farmworker housing programs increasing or decreasing in subsequent fiscal years. If so, can you explain?

Mr. GODWIN. Well, I might add, sir, that we are now attempting to develop an interagency agreement that would get the other Federal agencies that have direct responsibility for farmworker housing to jointly fund the activities that the Department of Labor has been funding entirely.

The Department funded the housing programs for farmworkers because this was transferred to us when the program was transferred from OEO.

Since that time, CETA has changed and our basic strategy has been to continue assistance for housing, but at the same time to try to change the programs in other agencies such that they provide for assistance for farmworker housing, and we have increased in the Farmers Home Administration budget the amounts available.

There has also been an increase in the HUD budget, and we are working right now on an interagency agreement that would tie our funding with the funding from HUD and EDA.

Senator BURDICK. In other words, there are three or four sources of funding now for the same type of housing?

Mr. GODWIN. Yes.

Secretary MARSHALL. And what we have been trying to do is coordinate in a variety of areas. We provide the people and other agencies have the facilities, so the people can be trained. In this case in housing and also in health and sewage treatment, water treatment plants, and a wide range of other activities, we can get the maximum use. So there will be jobs there for the people who get trained.

Senator BURDICK. Well, is it efficient to have the responsibility spread over three or four agencies like this?

Mr. GODWIN. Well, we think so. We think that the Farmers Home Administration has more expertise in housing than we do. They are the basic source of the grants and loans for housing. We cannot use our money to pay for materials and supplies.

So even though we fund organizations to provide technical assistance, these organizations spend most of their time negotiating for materials and supplies from the other agencies.

And we are now trying to work out a coordinated strategy such that we can talk about our resources so that when we fund somebody to do training related to housing rehabilitation, that the Farmers Home Administration will agree to provide money for materials and supplies.

Now, this interagency agreement has been in effect for over a year. It is a very successful program, and I think it is going to be a model for the agreement that we'll work out among the agencies.

[The information follows:]

CETA FARMWORKER HOUSING—INTERAGENCY AGREEMENT

Since we are at a very early stage in the develpment of this agreement, we are not in a position to furnish the committee with specific information about it. We can, however, explain in general terms why the Department is seeking to enter into agreements with other Federal agencies. Much of what is done by other domestic agencies has the effect of creating jobs—often in private industry. It makes good sense to us, in this regard, to make arrangements with these agencies whereby CETA participants can take advantage of the job opportunities created in this way. We have made a number of such agreements already, and we are seeking to develop even more in the future.

Senator BURDICK. Well, I will be interested to follow this and make sure you aren't getting in each others' way.

Mr. GODWIN. No; the objective is to prevent duplication and in the past that has been a problem because the Labor Department

has been funding housing activity simply because we inherited it from OEO, even though it was not in our basic mandate.

By involving the other agencies in our decisionmaking on the funding of housing programs, we can eliminate the duplication problem.

QUESTIONS SUBMITTED FOR RESPONSES

Senator BURDICK. Mr. Chairman, I have two or three other rather comprehensive questions here, and it might be better in the interest of time if I submitted these questions to the Secretary and they can answer these questions in detail. I might consent to doing that.

Senator EAGLETON. Very good.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

CETA FARMWORKER HOUSING

Question: Mr. Secretary, can you tell the Subcommittee whether the farmworker housing function of Section 303 of CETA will be continued in Fiscal year 1980?

Answer: The Department intends to continue housing-related projects that also involve direct training and other employment-related services and opportunities to migrant and seasonal farmworkers.

Question: Does the Department plan to phase out the housing component of Section 303 services, or will there be any changes in the delivery of services.

Answer: It is our plan to phase out those activities which had, in the past, been aimed at improving housing for migrant and seasonal farmworkers but which had no connection with the direct provision of training and other employment-related services and opportunities to migrant and seasonal farmworkers. We anticipate the continuation of a strong training and employment effort for migrant and seasonal farmworkers in the housing contruction and rehabilitation field.

EFFECTIVENESS OF FARMWORKER TRAINING PROGRAM

Question: Mr. Secretary, it is my understanding that last year your Department launched a number of new initiatives designed to assist migrant and seasonal farmworkers under the Economic Stimulus Package (ESP). Incuded in those initiatives was a national demonstration program to rehabilitate 500 farmworker housing units while simultaneously providing training to farmworkers in the construction trades. Can you tell us whether or not you have undertaken an assessment of the effectivenss of that demonstration program? Can you tell us what steps you are taking, or are prepared to take, to see that projects which have proven their effectiveness in delivering both housing rehabilitation and training services to farmworkers are continued during this fiscal year? In other words, how do you plan to continue these initiatives which have demonstrated their effectiveness?

Answer: Other than our analysis of reports submitted by the program operators, we have not yet conducted an assessment of the housing-related undertaking. However, we will soon let a contract that will result in a thorough evaluation of this and other farmworker-related programs that were financed under the economic stimulus package. The housing-related program, based on the reports received thus far, has shown good results; so it is our intention to set aside additional financial resources for it in Fiscal Year 1979 under CETA Section 303. The exact funding level has not been established, but it is our intention to maintain the program at a viable level. With regard to the other farmworker programs initiated through the economic stimulus package, our handling of them will be largely dictated by the results of the evaluation I mentioned previously.

FARMWORKERS HOUSING ASSISTANCE

Question: Mr. Secretary, I believe that when the migrant and seasonal farmworker programs were transferred from the Office of Economic Opportunity to your agency in 1973, you inherited a sizeable program of farmworker housing assistance. Is that right? I also understand that your Department has continued that program. Is that also correct? I am, therefore, concerned over the persistent reports reaching my office that your staff is contemplating discontinuing support for these farmworkers housing activities. I am particularly concerned that the national farmworkers housing program which has been administered by Rural America and its more than 30 local affiliates may be in jeopardy after more than 10 years of successful operation. Can you please provide this committee with an explanation of the Department's present plans with respect to the continuation of these housing programs, the nature and scope of existing farmworker housing needs, and the adequacy with which those needs are being met by other Federal agencies and Departments?

Answer: You are quite correct in your understanding that the Department of Labor assumed a substantial farmworker housing program from the Office of Economic Opportunity in 1973 and that we have continued to support it during the intervening years under CETA. In the past, these programs -- including a major component of the Rural America undertaking -- had dealt with upgrading the housing available to migrant and seasonal farmworkers without any particular correlation to the training and other employment-related needs of these people. I cannot deny that adequate housing for migrant and seasonal farmworkers is an important concern of the Federal Government, but the Department of Labor's statutory functions in this area are of a regulatory nature and extend only to employer-provided facilities. Since the program sponsored by Rural America which we assumed from the Office of Economic Opportunity did not relate to these functions, we took advantage of the resources provided by the economic stimulus package to redirect the primary focus of Rural America's activities to housing-related projects that also provided training and employment opportunities to migrant and seasonal farmworkers. I should point out here that CETA is not meant to support projects that do not provide training and other employment-related services to disadvantaged persons. In this regard, while we do intend to provide continued support to those Rural America projects that fit this criterion, we do not intend to use CETA resources to provide continuing support for activities which do not directly involve training and other employment-related services-even if these activities are designed to improve the housing that is available to migrant and seasonal farmworkers. We have already notifed Rural America to this effect and have suggested that they pursue the activities in question with more appropriate Federal agencies, such as the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA). As to the final part of you inquiriy, I would like to defer to HUD and FmHA--as they would be the agencies to give you a thorough reading on the general adequacy of housing for farmworkers and the extent to which the Federal Government now addresses the need to improve their housing. I am not trying to dodge the issue or suggest that the Department of Labor is not mindful of it. I am only saying

that there is a boundary where this Department's concerns end and where the concerns of other agencies begin.

FARMWORKER HOUSING PROGRAM

Question: If the Labor Department and other agencies cannot reach agreement quickly on coordination of housing activities, is there any commitment by the Department to continue the farmworker housing program?

Answer: It is the Department of Labor's intention to discontinue its financial support for one aspect of the overall program that is operated for us by Rural America, Inc. I refer to their provision of technical assistance and support to local self-help housing groups. It is our position that these activities do not relate adequately to the purpose of CETA, since they do not result in the provision of training and other employment-related services to migrant and seasonal farmworkers. We have advised Rural America to this effect and have further suggested that they seek financial assistance for the continuation of these particular activities from more appropriate Federal agencies - namely the Department of Housing and Urban Development and the Farmers Home Administration. We have indicated to Rural America that we would be willing to help them present their proposal to appropriate officials in these agencies, but we do not intend to continue financing these activities if Rural America is unsuccessful in securing alternatives resources. As a final note, I would like to explain that we do intend to continue our support for those Rural America projects that result directly in training and employment opportunities for migrant and seasonal farmworkers in the field of housing construction and rehabilitation.

Question: Don't you believe that farmworker housing rehabilitation financed by the Labor Department, including training of farmworkers in a variety of construction skills, would suffer if it was transferred to HUD or the Department of Agriculture?

Answer: The Department of Labor does not finance the rehabilitation and construction of farmworker housing. We do, however, fund a number of projects which are intended to provide job and training opportunities to migrant and seasonal farmworkers in conjunction with the construction and rehabilitation of their housing. We do not intend to transfer responsibility for such training activities to either HUD or the Department of Agriculture.

Question: In Washington State, a Labor Department grantee, Rural America, receives over $300,000 in housing funds. Do you intend to continue such financing in 1979 and in Fiscal Year 1980? At what level?

Answer: It is our plan to renew a number of projects now being sponsored by Rural America. At this time, however, it cannot be said as to how the funds for renewing these projects will be distributed among the States.

ELIGIBILITY VERIFICATION

Question: Mr. Secretary, you indicated that there was now in place an eligibility verification procedure for CETA programs. In September 1978, over $350,000 in CETA Title III funds were spent to transport 992 temporary agricultural workers. The Title III grantee in a notarized statement stated that 680 were ineligible for Title III assistance.

What happened to the verification procedure in this instance?

Answer: The eligibility verification procedures you refer to are being put in place via the new regulations we are issuing to implement the CETA re-enactment. The new regulations will be codified on or abour April 1, 1979. Regarding the payments that were made last September to transport seasonal farmworkers from Puerto Rico to the United States, your information is correct that 680 out of the 992 transported were not eligible for assistance under CETA Title III, Section 303. It should be pointed out here for the record, though, that those workers who were deemed ineligible for assistance under Section 303 were transported to the United States with funds available under CETA Title I. The screening process conducted in Pureto Rico was designed to ensure that no funds under Section 303 were used to assist persons who did not qualify.

Question: Correspondence dated January 5, 1979, from the Department states that DOL "...will continue to recruit U.S. workers..and, therefore, will continue to encourage qualified individuals from Puerto Rico to apply for available jobs."

What do you intend to do to make sure only eligible people participate in this program? What do you intend to do to make sure the people recruited are willing, able, and qualified to do the work for which they are recruited?

Answer: We will continue to recruit workers who show the willingness and ability to perform the job. We will continue to recruit in Puerto Rico, where unemployment is high and where there are large numbers of rural inhabitants. We are also giving active consideration to providing comprehensive training and orientation to the workers before they depart for the mainland, requesting the growers to become active participants in the recruitment process, establishing closer linkages between the State employment security agencies and our grantees under CETA Section 303, and increasing the number of Spanish-speaking staff employed by our Section 303 grantees to help the workers and the growers overcome language barriers that might exist between them. We are also considering limiting travel assistance to workers qualifying for services under Section 303. This, by virtue of the eligibility criteria in effect under Section 303, would ensure that payments are advanced only to persons who are experienced farmworkers.

DIFFERENTIATION BETWEEN OBJECTIVES

Senator EAGLETON. Mr. Secretary, it is mind boggling, at least to me it is, to differentiate between the various CETA titles and CETA programs in terms of what objective the program has, et cetera.

Let me hand you a copy of a couple of sheets, and I will put in the record at this time the two sheets that I have just handed to the Secretary.

[The information follows:]

U.S. Department of Labor
Budget Authority Summary
(In Millions)

	FY 1979 Estimate	FY 1980 Estimate
Employment and Training		
CETA Assistance		
Comprehensive Employment and Training (Title II A, B, C)	$ 1,914	$ 2,054
Youth Programs (Titles IV and VIII)	1,967	1,925
(Youth Incentive Entitlement Pilot Projects)	(107)	(---)
(Youth Employment and Training)	(500)	(798)
(Youth Community Conservation and Improvement Projects)	(107)	(134)
(Youth Adult Conservation Corps)	(217)	(167)
(Summer Youth Employment Program)	(740)	(533)
(Job Corps)	(296)	(416)
Private Sector Programs (Title VII)	400	---
National Programs (Title III)	372	326
Public Service Employment	$ 5,992	$ 4,727
Title II-D (Structurally Unemployed)	(2,517)	(2,536)
Title VI (Temporarily Unemployed)	(3,475)	(2,191)
Subtotal, CETA Assistance	$10,645	$ 9,032
Older Americans	221	235
Grants to States for Unemployment Insurance and Employment Services	1,715	1,797
Other (Program Administration)	126	119
Subtotal, Employment and Training	$12,707	$11,183

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EMPLOYMENT AND TRAINING PROGRAMS

AVERAGE FISCAL YEAR BUDGETED SLOT LEVELS

(Slots in thousands)

	FY 1977	FY 1978	FY 1979	FY 1980
Full Year				
Title II A, B, C.....	430	430	424	424
Job Corps.....	22	23	30	42
YEDPA.....	---	114	194	204
Public Service Employment.....	336	676	625	546 1/
Older Americans.....	37	39	47	47
Private Sector Initiatives.....	---	---	---	2/
Targeted Employment Tax Credit.....	---	---	39 3/	60-100 3/
Total full year	825	1,282	1,359	1,323-1,363
Part Year				
Summer.....	1,000	1,009	1,000	750

1/ Includes 17,000 slots for Welfare Reform Demonstrations.
2/ It is estimated that this program will provide 80,000 jobs by the end of FY 1980.
3/ Calendar year basis.

OVERVIEW OF CETA TYPE PROGRAMS

Senator EAGLETON. Sheet No. 1 is U.S. Department of Labor Budget Authority Summary, in millions. And the second sheet is entitled "Employment and Training Programs Average Fiscal Year Budgeted Slot Levels."

And rather inartistically we have tried to code sheet No. 2 to sheet No. 1. I will go down the sheet with you, if I may, just to get an overview of the totality of the CETA type programs in terms of gross dollars and slots and missions. OK.

TITLE II

All right, now CETA assistance comprehensive title II, A, B, and C: give me a basic summary of the mission of that program and then how many slots will be assigned to it.

Secretary MARSHALL. The basic mission of that title II is public service employee activity. That is training and primarily training and other activities involved in the public service employment.

But that training slot, the number of slots in fiscal 1979 is 424.

Senator EAGLETON. So that is staff year.

Secretary MARSHALL. Yes. So there are more people involved. But that's annualized number of slots.

Senator EAGLETON. So that remains basically the same?

Secretary MARSHALL. Yes.

Senator EAGLETON. And the increment in dollars is attributable to inflation?

Secretary MARSHALL. Yes; therefore work experience.

TITLES IV AND VIII

Senator EAGLETON. Now, the next category is incentive youth programs, titles IV and VIII, with various subcomponent parts.

Youth incentive entitlement pilot projects, youth employment and training, youth community conservation and improvement projects, Youth-Adult Conservation Corps, summer youth employment programs. Tell me what different things are deemed to be accomplished by having four or five—depending on how you want to count it—separate programs.

Secretary MARSHALL. These are all part of the act of 1977. The purpose of that title is to—in some programs that have demonstrated effectiveness—put them into openings, and to test some ideas about some other things.

The youth incentive entitlement pilot program was designed to test the ability to use employment programs for young people as a way to make it possible for them to stay in school.

It was a pilot project and therefore we will learn all that we plan to learn from it. It is a two year period. It will be over soon, so we are asking no new money for that. We will take the results and designate—and others concerned with the problem of youth employment——

Senator EAGLETON. Before we go to the next one, your learning experience of 2 years is over?

Secretary MARSHALL. It will be over in this fiscal year.

Senator EAGLETON. What did we learn?

Secretary MARSHALL. Well, we haven't synthesized all we have learned here. So the problem is the same. I think the proposition we were testing makes a lot of sense and therefore I hope that we can learn that there will be differential effects providing employment for the disadvantaged youngsters, especially to make it possible for them to stay in school or return to school.

LABOR FORCE PARTICIPATION BY YOUNG BLACKS

The concern that we had about that problem was that we found that an early analysis of the problems of young people in April of 1977—the labor force participation for young blacks was about 38 percent. And the labor force participation for young whites in the same age category was 60 percent, a vast difference, which meant that young whites had a much better chance to work while they went to school than young blacks.

So the proposition is: can you make it possible for young black people to remain in school—particularly young blacks who do not work. That is one reason they have a very unstable employment rate. It is 32.7 percent now. It has gone down from about 40 percent.

Senator EAGLETON. 32.7 percent of teenage blacks are unemployed?

Secretary MARSHALL. Yes. So the basic idea——

Senator EAGLETON. This is post high school?

Secretary MARSHALL. I believe that an important reason for the dropout rate has to do with jobs. There are other reasons involved, but that was one of the concerns we had.

The youth employment and training——

Chairman MAGNUSON. The problem is the concentration of the blacks in certain areas where there are few jobs.

Secretary MARSHALL. We have to do something to get the young blacks to jobs and the jobs to them.

Chairman MAGNUSON. And it's the concentrated families in those places. Whereas, you take a rural area in the summertime, sometimes there are more jobs around than kids who want to go to work.

LOCATION OF JOBS AND BLACK YOUTH

Secretary MARSHALL. The problems that blacks have is that they are located mostly in the South. And in the South they live mainly where jobs do not exist in depressed rural areas. If I gave you a list where blacks live in the rural South, it would be almost a perfect mismatch. In the North, the jobs are in the suburbs and outside the central cities, and blacks have a concentration in the central cities.

So job location is a serious part of the black unemployment problem.

The youth employment training program, as its name indicates, is just that, a youth employment training program. That is one of our highest priority programs. We think it is a very effective program, and therefore we wish to increase the funding for that $500 million to $798 million.

NUMBER OF SLOTS

Senator EAGLETON. Can you break that down into slots?

Secretary MARSHALL. We increase the slots by 10,000.

Mr. EDES. No, the service years, according to this chart I have here, in fiscal year 1979 were 119,500. And in 1980, it's estimated that the service years will be 168,800. The number of individuals served——

Senator EAGLETON. What is the service years?

Mr. EDES. That is slots.

Senator EAGLETON. But you said it was up 10,000.

Mr. ZUCK. That is a consolidated number he is looking at.

Mr. EDES. The total number of slots increases by 10,000, because there are reductions.

Mr. ZUCK. For this, we are going in 1979 from 119,500 slots to 164,800 slots.

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

Senator EAGLETON. OK. That was 45,000 slots, there being a sizable amount of money to supply that. OK.

Next, youth community conservation and improvement projects.

Secretary MARSHALL. This is to encourage young people to work and do the same kind of work in urban areas for the most part, as in the rural areas. They do physical work on physical facilities mainly in urban areas.

Senator EAGLETON. OK. That is urban youth. Now, can you slot that out?

Secretary MARSHALL. Yes. In 1979, it is 17,400. In 1980, it is 16,600.

Senator EAGLETON. So even though the money goes up from $107 million to $134 million, the number of slots goes down?

Mr. ZUCK. That is an increase in budget authority because we had so much mismatchment in funding. But we look at outlays, and they remain at $140 million both years.

YOUNG ADULT CONSERVATION CORPS

Senator EAGLETON. All right. The next is Young Adult Conservation Corps, primarily in rural settings. What are the slots on that for the present and future?

Mr. EDES. 29,200 slots in 1979, reduced to 14,600 slots in fiscal year 1980.

Senator EAGLETON. So you are cutting that program exactly in half, yet the money is cut only 20 percent or so?

Mr. EDES. Outlays, however, do in fact represent virtually a 50-percent cut.

Secretary MARSHALL. But the authority is not cut.

Senator EAGLETON. OK. Next, summer youth employment program, and that is not coded on the slot sheet.

Secretary MARSHALL. That is the part-year summer youth program. The amount of money that we request for that is down from $740 to $533 million and the slots were reduced from a million to 750,000.

Senator EAGLETON. Now, that program, Mr. Secretary, was the subject of extensive query by Senator Chiles earlier this week. And his questioning was primarily based on the very recent GAO report, which in net sum essence painted a rather grim picture as to the nature in which this program is functioning in terms of being used, ripped off, poorly monitored, et cetera.

Have you had occasion to read the GAO report or a summary of it?

PREPARED STATEMENT

Secretary MARSHALL. Yes. I have also issued a statement about that.

Senator EAGLETON. Well, why don't we make the full statement part of the record?

[The statement follows:]

STATEMENT OF SECRETARY RAY MARSHALL

We have recently received the GAO draft report on management problems in the Summer Youth Employment Program. I appreciate the contribution this study will provide to our efforts to improve management in all our employment programs.

On February 1, I announced the New CETA: A sensible approach to making the jobs program work. One of the four cornerstones of the New CETA is Improved Management. Under this new initiative, the Department of Labor is currently reorganizing the national and regional offices of the Employment and Training Administration. In addition we also are working to improve overall system management, monitoring and evaluation.

With limited staff and resources, managing a decentralized employment and training system with over 26,000 operating units is not an easy task. This is particularly true in the case of a 10 week program with over 150,000 work sites, like the Summer Youth Employment Program. The findings of the GAO Report came as no surprise. After several studies and reviews, we identified the same basic problems. In fact, we are already implementing many of the GAO recommendations. Over the last 18 months, we have made a concerted effort to intensify monitoring and oversight. We have developed program changes that will improve planning, increase work site supervision and productivity, expand linkages to year-round programs, and improve work experiences.

In spite of the problems and shortcomings that have been identified, it is important to remember that this program is critically important to our Nation's young people and their communities. Every assessment of participants indicates they are overwhelmingly positive about their summer experience. Also the evidence is unequivocal that the summer program is critically important as an employment source for disadvantaged

and minority youth. In July 1978 over two-fifths of employed non-white 14-19 year-olds worked in SPEDY.

Another important value of the summer youth program is the financial supplement it provides low income and poor families. The income of a typical participant equals about one-fifth of the average earned income of families in poverty.

Given the value of this program, I agree with the GAO that every step should be taken that will improve this important effort. I look forward to working with the Congress as we strive to improve the management of all of our employment programs under our New CETA initiative.

(Attached are responses to the specific recommendations contained in the GAO draft report.)

DEPARTMENT OF LABOR RESPONSE
TO THE GAO RECOMMENDATIONS ON
THE SUMMER YOUTH EMPLOYMENT PROGRAM

RECOMMENDATION: Develop models of quality work settings.

The results of a study identifying the success elements in quality work-sites have been provided to prime sponsors. The guide is entitled Youth Serving the Community: Realistic Public Serving Roles of Young Workers.

RECOMMENDATION: Provide guidance to prime sponsors on how to assess quality worksite experiences.

The Office of Youth Programs has provided a technical assistance guide containing the elements of a worksite that support and promote quality worksite experiences. A Report on Worksite and Other Activities Under the Summer Program for Economically Disadvantaged Youth (SPEDY) was issued by the Office of Youth Programs in October 1978.

RECOMMENDATION: Provide authority to regional offices to withhold funds where sponsors have not developed programs meeting requirements.

The authority of Regional Administrators to withhold resources where developed programs do not meet requirements is an established, and exercised, prerogative CETA-wide. In addition, Regional Administrators have the same authority once programs are underway if actual performance deviates substantially from the plan. Further, special provisions have been added to the regulations giving the Secretary (and thereby the Regional Administrator) the right to 1) immediately terminate or suspend

a sponsors program in part or in whole where substandard performance is evident, including 2) recourse to legal action against a subgrantee or subrecipient of funds to "protect the integrity of the funds or ensure the proper operation of the summer program" (Sec. 680.217).

RECOMMENDATION: Improve regional office monitoring.

Prior to the beginning of the 1978 summer program, regional staff, for the first time, were instructed through a national directive and monitoring guide to institute special and specific monitoring activities. At a minimum, three site visits were required to be conducted over the three month period. Two of the three were to take place after youth were assigned to the worksites to ensure quality work experiences.

Because the responsibility for ensuring a quality program falls primarily on the program operator, special regulatory provisions were included to require substantive monitoring of worksites and subgrantees on the part of the prime sponsor. Specifically, prime sponsors are required to establish and maintain regulated worksite standards, to monitor and evaluate worksite activities, and to visit the worksite of each subcontractor or subrecipient on a sample basis during the first half of the summer program to 1) compare actual activities to those specified in the worksite agreement, 2) assess the nature of the work performed by youth to ensure that all youth were substantively occupied, 3) to ensure that relevant provisions of the Act, the Regulations worksite agreements and subgrants were being met.

RECOMMENDATION: Consider sponsor's demonstrated success in past summer youth programs.

Regulations already contain such provisions, as do the grant application instructions. In point of fact, the regulations are substantially more specific than suggested by GAO. In Section 680.209, subcontracts may be made only with organizations that have demonstrated sufficient program capability. Furthermore, this "capability" is spelled out in terms of operations, financial management, worksite requirements, qualified management personnel, other federal program linkages and operations, past performance, basic training prior to program operations, work substance, reporting, monitoring, etc., at both the prime sponsor and subgrantee levels. There are in fact twenty-four (24) separate "capability" provisions including the regulatory directive to "close worksites where it finds serious or continued violations of the Act, the regulations or conditions of the contract of subgrant, and which are not likely to be remedied by quick remedial action."

RECOMMENDATION: Develop and propose to Congress funding procedures that more equitably distribute program funds.

Each year, alternative formula distributions are considered by the DOL and OMB. The present hold-harmless approach founded on unemployment rates among adults and numbers of low-income families does in fact target resources to the central cities and poverty areas. The difficulty in ensuring finely focused targeting of resources to youth most in need

is less a problem with the formula approach, than with the data base. Because youth unemployment statistics by prime sponsor area are simply not collected, nor available through sampling extrapolation, resources are not proportionately distributed strictly relative to youth unemployment levels. Nonetheless, the resources targeted to urban and/or poverty areas do, we believe, reach those youth who are most in need.

The GAO recommendation to distribute resources primarily to the "best performer" demonstrates an insensitivity to the impacts of scale problems. That is, it is often the central city and urban areas with large numbers of unemployed youth that have the greatest difficulty in reaching a maximum level of quality performance largely because of the magnitude of the problem. Prime Sponsors are asked to serve approximately four times the number of youth served in year-round youth programs in one-fourth the time. The resulting implementation difficulties must not be underestimated. The GAO suggestion would target resources away from those most in need.

RECOMMENDATION: Assure that sponsors recruit and increase participation of out-of-school youth and those most in need.

It is unclear to us why the GAO has emphasized out-of-school youth relative to the Summer Program. The Summer Program is a legislated response to the tremendous increase in youth unemployment that occurs during the summer months. Clearly, the rise in unemployment is not attributable to a sudden increase in the number of drop-outs flooding the labor market during the June through August period. Rather, the increase results from school closings. To promote recruitment of out-of-school youth, and reduce recruitment of in-school youth, would negate the positive impact on summer youth unemployment intended by the Congress.

As to serving those most in need, the law and regulations target services to the economically disadvantaged. Those youth, generally whose family income is at or below 70 percent of the lower living standard income level (LLSIL) or the OMB poverty level, or handicapped youth with family income at or below 100 percent of the LLISIL, clearly are those most in need.

We feel that to respond to this recommendation is, in the first case, counter to Congressional intent; and, in the second case, redundant. The youth most in need are being served.

RECOMMENDATION: Require sponsors to obtain adequate evidence supporting eligibility, and that verification of eligibility is adequate.

The focus of the GAO Report is on work experience, worksite management and allocation formula. There is no substantive evidence in the draft report provided to DOL on eligibility violations, or verification weakness. Reports of previous years summer program conducted by GAO did identify eligibility violations as a problem. The Department's Office of Youth Programs has conducted training of regional staff, and they in turn to prime sponsors staff, on the new economically disadvantaged definition that impacts on eligibility criteria, particularly in the summer program.

The expanded definition provided increased entree to the handicapped and adds another dimension to eligibility verification. Specialized training in verification procedures and systems has also been provided by ETA staff to support the improvements in verification activities already in evidence. Great strides have been made in this area in the face of highly varied eligibility criteria legislated for the individual CETA titles. We will of course continue to support these improvements.

TEMPORARY PROGRAM PROBLEMS

Secretary MARSHALL. We do have a lot of problems. We have had a lot of complaints about the program. It's difficult to administer, because it is a temporary program. You start it up in the summer and you go for 9 or 10 weeks, and then the program is over. So you have a lot of problems in controlling that and all the work cycles.

My general response was that, first, we had reached the same conclusion as the GAO. There were a lot of problems. We had started to implement many of the GAO recommendations to try to straighten that program up. I believe that we have to give more thought to a year-round program. Under such a year-round program, you don't have all the problems that you have with temporary summer programs.

That is why we increased the year-round youth programs. The summer youth program is one that does cause some trouble. It is, however, a very valuable program. We have knowledge of the problems and we are trying to do some things to solve those problems. The evaluations indicate that it is a valuable experience to young people. The real problem is the managerial problem. But we also have some timing problems. That is, people haven't gotten the money in time to really do all the planning necessary. And there is some uncertainty about how much money is going to be available. We have tried to solve that problem by getting the allocations out earlier. We are going to get funds out some time next week for this summer.

So there is going to be plenty of time to solve some of those problems.

We have also tried to monitor the program, both through the requirements that we have for the people who are running the program and for our regional people who monitor the prime sponsor's monitoring system.

I think that the GAO recommendations were good ones. We started putting those into operation, and I hope we can improve the performance in the future.

HISTORICAL ORIGIN OF PROGRAM

Senator EAGLETON. Well, I think the record should note the historical origin of this program. Of all the programs, it is one of the oldest, if not the oldest. It was conceived back in the early sixties at the time when the cities were having difficulty—Watts and other tragedies in the metropolitan cities. And Congress designed this program very broadly as a method of, in essence, keeping young people busy during the hot summer months. And the busier they were kept, the less likely, it was thought, that there would be a repetition of the tragic instances of this period.

Chairman MAGNUSON. It started out almost as an anticrime program and developed into what it is now.

OFFICE OF INSPECTOR GENERAL

Senator EAGLETON. And I don't think since its inception it was ever monitored very closely. I'm not blaming you as the current Secretary of Labor for all the sins of the past. It was very loosely handled from the beginning.

What about the monitoring of all of the programs on this summary sheet? I'm leading you into some questions about the Office of Inspector General.

Secretary MARSHALL. Well, we have done a lot of things both in the Office of Inspector General and our activities to try to include management programs. Some of those we are doing are ETA, and some in the Office of Inspector General. The law assigned responsibilities to the Inspector General. I think it might be useful to emphasize, though, the general approaches we are taking. We believe that improving the management system will do a lot to eliminate problems with the system.

We believe that the beginning of wisdom about any problem is to ask yourself why you have it, and we've started to do that as we've looked at problems in the CETA system, what are they and why do we have them. Then we can take action to get at the root causes of problems and responding to complaints and to newspaper articles.

We believe that is extremely important because we think that this is a valuable program. If we didn't have this program, the Federal deficit would increase by $17 or $18 billion, and we think it's a good investment. We also think we demonstrated it can be used to reduce unemployment. More than doubling the size of that program in a relatively short period of time, we can demonstrate that it had a positive effect in reducing the unemployment rate overall and among the groups we are trying to reach.

We believe that it's important to eliminate any problems that we can because it is such a valuable program to the country. We think it is extremely important for us to be preventive and not reactive. We ought to try to develop the system so the opportunity for abuse in the program won't exist. We have an early warning system to give us the information and for us then to have a way to respond to abuses in the system.

CREATION OF OFFICE OF SPECIAL INVESTIGATIONS

Chairman MAGNUSON. Who does that for you? You can't do it within your own shops. You've got to have someone in the outside perform this.

Secretary MARSHALL. We do have someone in the outside. That's the reason, Mr. Chairman, I created the Office of Special Investigation. It is the reason, also, that the Office of Special Investigation works very closely with the FBI, local law enforcement officials, and others. And we work jointly on all those activities.

But what we are also trying to do is to instill in all the people in the Department of Labor the need for them to be alert to the problem wherever it is. We have developed a way in the CETA system for the Federal representatives who have most contact with the prime sponsors to give us questionable activities reports on anything that they spot, so we can then move.

The Office of the Inspector General, which was created in October and in which we are still in the process of funding and getting out——

Chairman MAGNUSON. Well, the Senator from Missouri was a strong advocate of having inspector generals from the outside look at these matters, because actually, it is a big part of this program.

It is so, because I think that agencies just lose sight of some of the things that somebody on the outside doesn't have a problem recognizing. For a person to look and see where you are going wrong, that person has got to be completely independent. It seems to me that if a guy is doing the management on the top side or even down below at the second, third, or fourth level, he is so busy doing that, he can't take time out to say, well, I managed it here, and then I'll sit over here and take a look at my management. He can't do that.

Secretary MARSHALL. That's right. And what we found beyond that, Mr. Chairman, is that it is a serious problem, but another serious problem is that the investigative work requires professionals and requires that outside look. In addition, you need to strengthen the sensitivity of the people within the system to the problems.

But we think you also need this outside capability to get at it.

Let me just list some of the things that are within that framework.

PUBLIC IMAGE OF CETA

Chairman MAGNUSON. Well, up here we don't have the staff to do that. We couldn't possibly. We have to rely upon you people or people down beyond. But they get lost, and then they come up here with some startling news of something that shouldn't have happened in the youth summer program that was bad, and the image of the thing is bad. It is bad all over. The image of CETA is bad. And this is what bothers us.

Secretary MARSHALL. Well, it bothers me, too.

Chairman MAGNUSON. CETA was created—the public accepted it when we were having the worst time in our economy. Now, when the economy is better, we are wondering why we are continuing with CETA. We have a strong economy and lower unemployment, you know, and now they say, why are we using CETA at all.

So we are torn between a public image of CETA and the fact that the public accepted—the taxpayers are paying for CETA, and it should tighten up as things get better. We should have a really tight ship.

Secretary MARSHALL. Well, we agree. One part of the program was title VI. It was supposed to go down, of course, when the overall level of unemployment went down. But we still have some pockets of very high unemployment. And you've got high percentages among minorities and women and other groups.

So we believe the main direction of the program in the future should be to deal with the structural program problem rather than concentrating as much as we have on the other problems. But we also agree that we should run a tight ship.

I think the problems you have with the image is because a lot of people found out about the problems before we started correcting

them. The same problems you ordinarily have—much of the information to the press came from our investigations.

Chairman MAGNUSON. You aren't cutting CETA at all?

Secretary MARSHALL. Our request for CETA is cut by $1.3 billion in budget authority and our outlays by about $700 million. Let me mention some of the kinds of things we have been doing in trying to run a tight ship.

NEW CETA BILL

I think it is important for people to recognize the new CETA bill, which was passed in the last Congress in October is a different bill. We now have a different program. Our authority under the program is much tighter than it was. Many things that we could not do—it is a diffused system. There are 460 prime sponsors out there running the program and they have over 50,000 people altogether, 50,000 entities, not people, operating programs; 460 prime sponsors, and then they subcontract to 50,000 people.

Now, the Congress decided when it passed that bill that there were a lot of advantages to a decentralized system. And the main advantage is that the people who were closest to the problem are supposed to be the ones that develop the mix of employment training activities to deal with that problem. And that—I think—is a valid assumption about the program defects, that it becomes very difficult to have very tight control of it.

But we think that we have learned as we go along, and that we have been able to do some things to improve it.

Now, within the Employment and Training Administration, the following kinds of things have been introduced in order to deal with the problems:

The prime sponsors are now required to monitor the subgrantees as required by law and our regulations. And we monitor the prime sponsors.

The prime sponsor is now required to have a verification system on enrollee eligibility. And we monitor that system.

The Department of Labor staff will monitor the prime sponsors for the following things:

To see that they have a monitoring system. We are trying to improve the information system and to bring it up to date. That is, to get a system that will make it possible for us to learn as much as we can.

We have accounting and financial reporting systems that give us information on the use of the money, eligibility system, system verifications, so that we can find out if the right people are actually participating in the programs.

For the first time, anyone who handles CETA money is required to be bonded. In addition, there are preventive activities within the employment training activities. This is to give technical assistance to the prime sponsors in order to improve the management system.

Congress created in the CETA reauthorization bill a new Office of Management Systems which will be dedicated to providing technical assistance. They will help the prime sponsors with preparation of financial information reporting new eligibility, reporting verification, and dissemination of the successful models.

There is an audit system of subgrantees of the primes by the Department of Labor, and copies of all these audits will come to the administration for resolution, including the recovery of the costs, where necessary, for review by the Office of Investigation and Compliance.

These will be preventive types of things. They won't be predictable, and they will be in response to many, but there will also be some directed reviews. But we have done a lot and intend to continue. It is being developed now and it will be designed to incorporate and reflect the reauthorization of CETA elements.

We want to do everything we can to complete this completely and accurately. In addition, we have a fraud and abuse prevention survey by the Inspector General.

FUNCTIONS OF THE OFFICE OF THE INSPECTOR GENERAL

Let me say some things about the work of the Inspector General and——

Chairman MAGNUSON. Well, I'm glad you're going to say something about him, because we haven't seen him yet.

Secretary MARSHALL. The Acting Inspector General is Mr. DeMarco. We created the Office of Special Investigation prior to the legislation establishing the Office of Inspector General.

Now, that, as you know, was created October 12 and has been engaged in the following activities:

There are reactive investigations based on the complaints. Here we use a variety of investigators, both inside and outside the Department, working with the local law enforcement agencies, Federal agencies, and our own people.

We have, in addition to that, developed a fraud and abuse prevention survey, which is a preventive system, and the basic thing there is to examine systems to see if you have eliminated those things that tend to make it possible for fraud and abuse to take place.

We consolidated the audit and investigative functions in order to gain advantages of both. In the initial stages of audit, if someone said they paid a third party, we check the third party to see if they did.

Now, we have developed an internal audit system and also a management by objective system to determine effectiveness and to monitor completion of planned operations at all levels.

Another mechanism that we have developed is the so-called incident report. We have not had a requirement in the past that people in the Department who see something questionable call in any kind of report. That will now be required.

Now, I think another very important part of the activity of both the Office of Special Investigation and the Inspector General is that we are magnifying our resources by working with other local law enforcement forces. With the systems we put in place, that we can do a lot to reduce the abuse and also to prevent it. We think the preventive part is the most important part.

NUMBER OF POSITIONS

Senator EAGLETON. Now, while we are on the subject—and then we will get back to the sheet—but while we are on the subject of fraud and abuse and the like, take a look at page 42-A of your budget justification book, the program labeled investigation and compliance. It talks about 66 positions in 1978, 52 in 1979, 52 in 1980. It also mentions in the justification sheets, everywhere it refers to the Office of Inspector General—does your budget, what, request 37 additional slots?

Secretary MARSHALL. Yes, in the Office of Inspector General.

Mr. ZUCK. That shows up, if you go back, Mr. Chairman, under the DM departmental management proposition——

Secretary MARSHALL. What we did when we created the Office was to transfer people from positions from other agencies in the Department into that Office, and it is now in my office and reports are directed to me rather than being in the employment training sections.

Senator EAGLETON. The 52 slots that are on page 42-A? They are not part of the Office of Inspector General?

Secretary MARSHALL. No; you will see that the Office of Inspector General, from 212 in 1978, it rose to a level of 392 in 1980, almost a doubling of our investigators in the auditing capacity in those 2 years.

Senator EAGLETON. You have seen fit to compare 1980 with 1978, but if you compare 1980 with 1979, it is a 10-percent difference.

Now, on this whole sheet—and we're going to get the number of dollars involved and the number of slots involved—the bottom line is going to be for your budget, as far as CETA was concerned, it was around $10 billion, and now it is going to be around $9 billion.

My question is, with a budget of that magnitude—and by the way, as it was pointed out by Senator Magnuson at an earlier hearing this week, these are not required moneys, they are discretionary funds. And thus, when Congress is looking around for places where they can save money, a $9 or $10 billion account is a big one.

But the amount of money involved in these various CETA programs, as you say, 460 prime sponsors and subs, dealing with millions of slots—you know, 1 million slots alone in youth summer programs, now down to 750——

Secretary MARSHALL. Yes; that is slots for a short period of time.

Senator EAGLETON. Short slots. But tens of thousands of long slots. OK? [Laughter.]

Is your Office of Inspector General really going to be able to monitor the programs of both the fiscal magnitude and the number of people involved, and thus diminish the opportunity for abuse and ripoff?

RESPONSIBILITY FOR PREVENTING FRAUD

Secretary MARSHALL. I think they will be able to do their assigned work. It is going to be emphasized that their assigned work is not to do the whole job of preventing fraud. The whole Department is ultimately responsible for that. We have about 22,000 people and we have our auditing and investigative responsibility.

Now, the work of the Office of Inspector General is fairly specialized in order to take advantage of the special skills of those people. In addition to that, they have the whole Federal law enforcement community to call on. The FBI does a lot of our work in the selection——

Senator EAGLETON. How many indictments in the Justice Department do you have, or that the U.S. attorney brought for criminal fraud in connection with the CETA program?

Secretary MARSHALL. It is roughly 180 or some such figure.

Mr. DEMARCO. In the CETA program, 64 since last summer.

Senator EAGLETON. Sixty-four indictments since last summer? Okay. When you read some of these GAO reports in terms of misuse and mishandling of moneys, 64 is not a very robust figure.

Mr. DEMARCO. That is only including cases that we have been directly involved with. That doesn't include cases the FBI has conducted on their own and the local authorities have conducted. So it might have been—I'm sure it would have been more.

Secretary MARSHALL. Well, I think the point is, the resources available to us are not just within our own budget. The FBI has the responsibility for these kinds of activities. The advantage of the cooperation that we have with them in this program and in other programs is that we can add our specialized program knowledge to their investigative expertise and make more sense out of it and interpret the results they get.

We think, therefore, the resources available to us, while always limited, are adequate to do the job and to carry out the system.

I think it is also important to emphasize that the most important thing is to be preventive, that is, developing good management procedures so that there will not be opportunities for abuse of the system.

Chairman MAGNUSON. How many of these people that you have are located here?

Secretary MARSHALL. You mean in the whole Department?

Chairman MAGNUSON. No——

Secretary MARSHALL. Twenty.

Chairman MAGNUSON. And the others are out in the regional and field offices?

Secretary MARSHALL. Yes.

Senator EAGLETON. Let's continue with the sheet and conclude that portion of the testimony. We got through summer youth employment, and that is when we went off on the Inspector General thing.

By the way, we intend to have some much more thorough and exhaustive investigations on CETA and some other GAO reports, et cetera.

JOB CORPS

Job Corps. How many slots are involved?

Secretary MARSHALL. The Job Corps is going from 30,000 to 42,000. Our objective was to double the size of the Job Corps, starting with the activity in 1977. And we will complete that in addition——

Chairman MAGNUSON. How do they conflict with some of these other jobs—the CETA jobs—the youth employment? What do you mean by Job Corps?

Secretary MARSHALL. The main purpose is to take severely disadvantaged young people, ordinarily from depressed rural places, and put them in a residential setting so that you get them in that residential setting and a number of things are done:

One, remedial education. Many of these young people haven't finished high school, but many of those who have are unable to read or write. They are functionally illiterate. The Job Corps has developed a very effective system to get people ready for high school equivalency tests in a reasonably short period of time. They have, in some cases, emotional or physical problems, and some have many problems. The Job Corps counsels and gives physical assistance to young people, and then trains them.

OVERLAP WITH HEW

Chairman MAGNUSON. Well, we have this big HEW budget, but I will guarantee you in the budget, which is this thick, that HEW and the Education Department are doing the same thing.

Secretary MARSHALL. I believe they are in the residential section.

Chairman MAGNUSON. We aren't going to do busing again, are we?

Secretary MARSHALL. No. The first one was established in San Marcos, Tex., at Camp Gary, which was an abandoned military base. And at Camp Gary, the youth had facilities and they also—in addition to supportive things I've mentioned, they did some job training and got them ready for either——

Chairman MAGNUSON. Well, these would have to be dropouts, then?

Secretary MARSHALL. People who tend to be dropouts, yes.

Chairman MAGNUSON. Because otherwise, in the education part of HEW, we have millions of dollars for training of disadvantaged elementary and secondary schoolchildren. Is there a conflict there?

Secretary MARSHALL. I don't think there is a conflict.

Chairman MAGNUSON. We have counselors in there and we have everything in there that you can think of. And here you are, coming along and doing something else in the field of education.

Secretary MARSHALL. Well, it is education and training.

Chairman MAGNUSON. Any way you slice it, it's training.

Secretary MARSHALL. Well, it's the kind of training I don't believe you will find in HEW or any other place. I think it is a combination of things, and I think it is a very good program.

Chairman MAGNUSON. Well, I'm not arguing about the good program. I think it is a good program. But there are so many conflicts in there and there is so much overlapping. It is hard to know exactly——

Secretary MARSHALL. The main thrust of ours is to get people into the jobs by training, the main thrust of their——

Chairman MAGNUSON. And how much does that cost per person?

Secretary MARSHALL. It costs about $9,900.

Chairman MAGNUSON. The same as a CETA program?

Secretary MARSHALL. Yes, for a year's program.

Mr. ZUCK. The average cost per person.

Chairman MAGNUSON. And how many are involved?

Mr. ZUCK. There are 42,000 slots.

Mr. EDES. It will be about 93,000 participants, sir, in fiscal 1980.

Chairman MAGNUSON. Well, I think you better have, for the record, how you coordinate your activities with HEW on this, because they are trying to do the same thing. And we have a lot of money in there for that.

The Senator from Missouri and all of us, we think these are good programs, but we think it is overlapping.

Secretary MARSHALL. We coordinate a number of activities with HEW, because it is hard to make the distinction. If you can't train somebody to read and write——

Chairman MAGNUSON. But if you have dropouts, that is one thing, because a dropout would not be under an HEW program.

Mr. EDES. Some of them, Senator, have not even dropped in.

Chairman MAGNUSON. Well, then they might come in and finish school. But I don't want any of this overlapping, because the amounts of money we are talking about here are big, and we don't want this overlapping.

You put in the record how you are coordinating that program with HEW and what they are doing.

[The information follows:]

DOL/HEW COORDINATION IN JOB CORPS

The Comprehensive Employment and Training Act amendments of 1978, Public Law 95-524, requires coordination and consultation between the Secretaries of HEW and DOL in the following sections: Sec. 438a(2); Sec. 445; Sec. 457(c); and Sec. 462b.

The Job Corps is a residential education and training program for disadvantaged youth between the ages of 16 and 21. It is designed to serve the needs of out-of-school youth by providing basic education, employability skills and vocational training to enable them to enter the labor force. These features make Job Corps a unique Federal program.

Programs sponsored by HEW, primarily the U.S. Office of Education, are nonresidential in nature and are designed for youth living at home while attending public secondary schools. Therefore, as the two programs differ in purpose and delivery of kind and type of services, there is no overlap between Job Corps and HEW programs.

Approximately 10 percent of the corps members obtain a high school equivalency certificate while serving in Job Corps which can lead to higher education or advanced vocational training opportunities.

The Job Corps cooperates with HEW programs by referring corps members to off-center public school facilities to seek advanced education and training opportunities. Cost savings have been realized using the referral method, when appropriate, rather than establishing new training programs at Job Corps centers. When corpsmembers are successfully returned to the public school system, the Job Corps considers such a referral a positive placement. HEW cooperates by providing the results of educational research regarding the disadvantaged, basic education and vocational curriculum materials and serving as advanced training institutions for Job Corps graduates.

Chairman MAGNUSON. Thank you, Mr. Chairman.

PARTICIPANTS IN JOB CORPS

Senator EAGLETON. Would it be fair to say that those young men and women participating in the Job Corps, that they are the most unemployable of the unemployables, who need all kinds of assistance in acquiring marketable skills?

Secretary MARSHALL. Yes. These are the disadvantaged disadvantaged.

Senator EAGLETON. And as someone said, some of these people haven't even dropped in, much less dropped out.

Secretary MARSHALL. We have learned a lot through them. This program is a relatively old one. It was started back in the Kennedy administration and we have learned how to make it more effective. And I think——

Senator EAGLETON. All right.

PRIVATE SECTOR PROGRAMS

Next down the list, private sector programs, title VII. Last year, $740 million, this year zero.

Secretary MARSHALL. Well, that is our private sector level. The main innovation is to fill an unfilled gap. That will be mainly for on-the-job training in the regular economy. There will be established in each market a private, independent council made up of representatives of the private sector—unions and employers and other people in that labor market—to do a number of things.

One is, we want their help with the local CETA system. They need to help us do the analysis of what we should be training people for in the labor market, to get people placed in that labor market.

Accompanying CETA was the decline of the related on-the-job training, partly because once you went from a centralized system to a decentralized system, you didn't have a convenient mechanism to make it available for people to participate in.

We think this will fill that gap. We think it will do a lot to change the whole CETA system. The changes that have been made in the system give much heavier emphasis to the use of the CETA system as transitional employment and training. And by limiting the length of time anyone can stay in the program, by more emphasis on the job search, better labor market information and more emphasis on training, we will, I think, do a better job of moving people out to the public employment by this training system and into the regular economy. That is the purpose of the private sector program.

COST OF PROGRAM

Senator BURDICK. Mr. Chairman, yesterday it was developed that we didn't anticipate spending over that specific amount. Why are we asking for this now?

Secretary MARSHALL. To facilitate planning that has been going on. We have consolidated extensive private sector groups by getting this program underway. The national businesses have been heavily involved in helping us with it. The Committee for Economic Development has been heavily involved. We have input from a large number of other agencies. We have already started it at 34 places by putting out money. We have found in the past that if prime sponsors are going to plan to get the system underway, they need some certainty about how much money they are going to have to run the system. And that's the reason we are asking for all of it, even though we don't intend to spend it all in this fiscal year.

This fiscal year we don't know how much—we know we can get a number of these started, use some of the information from the

exemplary programs we already have, to help in the establishment of this program.

Mr. EDES. It is also important to understand that the money is put out under a formula, and in order for each prime sponsor and each private industry council to know precisely how much money they are going to have, to be able to sign contracts in the private sector, it is important that the $400 million be distributed, so in fact that there are a sizable——

Senator BURDICK. But you know you are only going to spend so much.

Mr. EDES. So our estimates of actual expenditures, we do not know——

Chairman MAGNUSON. Well, do you want us to appropriate money on estimates that you don't know? I don't understand this.

Secretary MARSHALL. Well——

Chairman MAGNUSON. Now, here you come in and you are——

Secretary MARSHALL. Let me——

Chairman MAGNUSON. Now, they are coming back, and you want $400 million again, supplementals. It just puts us in a difficult position. I don't know how these 34 private sector pilot projects are going to work. I don't see how they are going to work.

Secretary MARSHALL. They are working very well.

Chairman MAGNUSON. Well, all right.

Secretary MARSHALL. We use the information from that.

EXCESS FUNDS

Chairman MAGNUSON. And you have excess money in private funds. You want to keep this and then have us appropriate another $400 million, and then there will be another supplemental law on something else.

Mr. PACKER. Mr. Chairman, I think we recognize your problem with the floating money. And I think we have a problem——

Chairman MAGNUSON. Well, we don't have any problem with floating money. We are just going to put the thumbs-down on it. But we just want to know how much of it is floating.

Mr. PACKER. What we would like to do is work at the staff level and see if we can resolve the problem we have, which is to somehow provide the certainty. We are going to ask the business community to change its employment practices so that it begins to hire some people from organizations it never did before.

I think there may be mechanisms we can work out by which we can tell business organizations that we are going to be working together for some period of time, and there is a way, as you change your practices, to know that.

Chairman MAGNUSON. What is their contribution? What is the business alliance contribution?

Mr. EDES. It is the private sector who will be, in fact, hiring individuals.

Chairman MAGNUSON. But if they pick up some CETA jobs, they get a tax break, don't they?

Mr. EDES. Not simultaneously.

REPROGRAMING FUNDS

Senator BURDICK. Well, following this, the staff just tells me that there is unused and unspent money from 1978 under the STIP program. How much is there unspent?

Mr. GODWIN. There is approximately $3 million that is under contract that has not been allocated.

Secretary MARSHALL. All the money is committed to them.

Senator EAGLETON. Well, I think we are all probing the same point. The section 108(a) of the Comprehensive Employment and Training Act Amendments of 1978 reads as follows:

> The Secretary is authorized to reallocate any amount of any allocation to the extent the Secretary determines that the recipient will not be able to use such amount within a reasonable amount of time.

Now, I quoted that part of the statute. Senator Schweiker asked this question: You're projecting excess public service funds of $400 million by the end of fiscal 1979. People think it might be higher than that. The question is, why couldn't you simply take $400 million of the excess and reprogram it to the private sector program, instead of seeking a 1978-79 supplemental?

Secretary MARSHALL. We talked about that and explored the possibility of doing it. It is difficult. The difficulty is that the public sector emplomentmoney is already allocated, and they didn't get their money until well into the fiscal year. It was one of the reasons we had the problem.

We drastically changed the requirements on this and we are tightening up on the system. So we have jerked them around a good bit. If we came in this early in the fiscal year and jerked them around some more, we would generate a great deal more uncertainty in that system.

There is also a legal question about whether we can reallocate when we don't know how much they are going to have. They have plans they are working on. Now, there won't be any difference in the amount of money that gets spent if you reallocate, but you would create uncertainty in the private sector industry, because they don't know if they are going to get the reallocation or not.

I think we would have to come back and get authority to reallocate at this stage, because we don't know what prime sponsors are going to spend. So the problem with reallocating is that you would have to redistribute funds which have already been distributed.

Now, it seems to us to make more sense to let us use the excess carryover for 1980 budget purposes and not to try to reallocate at this point. It won't make any difference in the amount that you spend in any way. The outcome would be the same. But you would give the system a little more continuity and certainty by leaving it that way.

Chairman MAGNUSON. Well, we may be adaptable to that.

Secretary MARSHALL. We would like to work with you on that.

GRANTS TO STATES FOR UNEMPLOYMENT

Chairman MAGNUSON. I do have to go in just a minute.

Dropping down to the grants to the States for unemployment insurance, you have $1.750 billion. It has gone up to $1.797 billion. Why has that gone up?

Mr. ZUCK. That appropriation, Mr. Chairman, covers both the employment insurance and the employment services. Most of that increase is related to salary increases of State agency employees who administer both programs.

Chairman MAGNUSON. Now, are the States paying any of this back at all?

Mr. ZUCK. Some of them. I think we have about $5 billion in loans outstanding from 18 States. As their economies are improving and tax revenues are increasing, we are expecting to get some of those loans repaid.

Chairman MAGNUSON. They are all in the black, all of those States but three, and those three are close. And they are all in the black.

Now, are any of the States, when they get in the black, coming up with some of this money?

Mr. ZUCK. Yes. I would have to provide that figure for you.

[The information follows:]

LOANS TO STATES FROM THE FEDERAL UNEMPLOYMENT ACCOUNT

Current law provides that States do not have to repay outstanding loans if certain deferral criteria are met. This deferral ends in 1980 and at that point States are liable to begin repaying outstanding loans. Several States have either repaid their loans or made partial repayments. As of January 31, 1979, seven States: Washington, Hawaii, Nevada, Oregon, Maryland, Ohio, and Florida have entirely repaid their loans. Partial repayments have been made by Connecticut, Vermont, New Jersey, Rhode Island, Minnesota, District of Columbia, Alabama, and Arkansas.

The total amount of money repaid is $516 million out of a total borrowed $5,585 million. It is anticipated that $100 to $200 million will be repaid in both fiscal year 1979 and fiscal year 1980 while additional loans will be approximately $125 million in fiscal year 1979 and $550 million in fiscal year 1980.

Current loan repayment provisions will result in repayment by most States by 1985 and under present economic assumptions.

UNEMPLOYMENT BENEFITS/ESTIMATE

Chairman MAGNUSON. It is very confusing, because we took it all on at one time. I think we should put in the record what is the unemployment benefits estimate for the next year's budget?

Mr. ZUCK. You mean the total benefits? We'll put that in the record, also.

[The information follows:]

Fiscal year 1980 unemployment benefits

	Millions
Unemployment trust fund	$10,142
Federal unemployment benefits and allowances	980
Total fiscal year 1980 estimate	11,122

APPROXIMATE COST

Chairman MAGNUSON. Well, give me a round, ballpark figure.

Mr. ZUCK. I think the ballpark figure is about $10 or $12 billion.

Chairman MAGNUSON. $10 or $12 billion. And if unemployment went up, the amount would go up?

Mr. ZUCK. It is expected to go up.

Chairman MAGNUSON. So that is money coming out of the Treasury and nothing going in?

Mr. ZUCK. That is correct.

Chairman MAGNUSON. And the States were supposed to take care of half of that, and the States have not come through with it.

Mr. ZUCK. Many of them have not. Some of them are now starting to come through.

PICKING UP TABS FROM STATES

Chairman MAGNUSON. So here again is a matter which we have to struggle with. Just how many local tabs are we picking up from the States? People forget that we pick up a lot of money. And we are talking about, I think, a couple of years ago there was about $15 billion that we picked up.

Mr. ZUCK. It was very substantial.

Chairman MAGNUSON. And now you say it is about $11 billion.

Mr. PACKER. It went from $10.3 billion to $12.4 billion in 1980. But that's the expenditure including the moneys raised by the State unemployment systems, all of which shows up in the Federal budget anyhow.

Chairman MAGNUSON. Well, that is a problem that shows up as outlays in our deficit, and it's partly a State responsibility. And they haven't come through with it; most States haven't. I think my State made some open payment, a large payment the other day. But States haven't come through, even though they are in the black. At the same time, of course, people are passing regulations for us to balance the budget.

Well, that is fine with us. We'll just make them pay their share of this and some of the other things. This is a forgotten item and it is a pretty large one.

Mr. PACKER. Well, they are paying it back. It would not reduce the outlays of the Federal budget.

Secretary MARSHALL. It would reduce the debt to the general fund.

Chairman MAGNUSON. Well, the debt is included.

Mr. ZUCK. It would be additional revenue to the Federal Government.

Mr. PACKER. If we raised the taxes——

Chairman MAGNUSON. Well, we keep books, of course. It is out of the Federal till any way you look at it. Somebody is dipping their gloves into the Federal till, any way you slice it and I just want to get those figures. I guess there isn't much we can do about it because they are uncontrollable items, aren't they?

REPROGRAMING OF STIP FUNDS

Senator BURDICK. I want to go back to the question about the STIP, about the $40 million that was committed. How can that money be under contract when the Secretary just this month sent a letter——

Mr. GODWIN. Well, the letter that the Secretary sent to the Chairman was for reprograming approximately $23 million of the STIP money to be used in national programs to provide the same services that the different programs provided. There was no change in the actual work that was provided.

Senator BURDICK. But the fact is there is $40 million that hasn't been issued yet.

Mr. GODWIN. The way the different programs operate is that the prime sponsor, as well as the national organizations, contact the private firms to conduct on-the-job training. Now, when the program sponsors go out, they have to fill those OJT slots, so that each prime sponsor has an allocated share of the money that was originally allocated by the Congress. So they are guaranteed the OJT slots against whatever the share is.

Senator EAGLETON. It makes it all clear, doesn't it? [Laughter.]

PRIVATE SECTOR PROGRAMS

Senator EAGLETON. All right, back to the sheet. Private sector programs. We have one more. What are the slots on that?

Secretary MARSHALL. That would be about 80,000.

Senator EAGLETON. Now, the question as to policy. Does your heavy emphasis now on this private sector program—and from the tone of your voice and the emphasis you put on it—is this a tacit recognition by the Labor Department that, if any meaningful inroads in the problem are to be made, not only for youth, unemployed people of any age, that we're going to have to turn to the private sector as opposed to—short of temporary standby—public service slots, that expire over a period of time, or certainly summer youth employment, which only lasts 9, 10, whatever it is, weeks?

Is that a proper inference I'm drawing from your testimony?

Secretary MARSHALL. Well, I will put it in a slightly different way. I will say that we need a combination of the public training and regular economy activities. But many of public sector jobs are regular jobs, too—State-local government jobs.

It is a recognition that the main role in employment training activity is to get people ready for the regular economy, and we have to provide temporary work and training until they can get a job in the regular economy.

So to accomplish most of what we hope to accomplish in the future in the program, it is important to get the transition people out of the system.

Senator EAGLETON. Well, I strongly support this. I think it is the way to go. Now, I am not recommending canceling either the job corps or summer youth, et cetera, but I think in terms of meaningful and long-lasting results, I think you are going to do a lot more through the private sector than some of these other programs.

PILOT PROGRAMS

However, one would ask this question. This is not my question, but I am going to ask it on behalf of somebody else. This anonymous questioner asks: Rather than a national private sector program, why not have a few dozen pilot programs the first year in those cities that seem more ready to conduct such a program?

Secretary MARSHALL. That is a good question. We have already done it last year.

Senator EAGLETON. You are just a year late. [Laughter.]

Secretary MARSHALL. We did 34 of them. What we also did was to—of course, some places—we had some 34 pilot projects, and there were also a number of places where there were good mechanisms already in existence. We studied those to see what kinds of things were being done in some places, where we were doing a good job of already getting people placed.

One program was in Chicago. We looked at that and programs in other cities, and then developed the model, studied those, and we think now we are ready to go with the program.

COST FOR SLOTS

Senator BURDICK. Mr. Secretary, are you able to estimate what the cost for slots would be?

Secretary MARSHALL. Well, the estimate that we made is that the cost for 80,000 is $400 million. That comes to $5,000 a slot.

Senator BURDICK. Taking into consideration revenue loss——

Mr. PACKER. Well, I think you have to keep the private sector initiative and the targeted jobs tax credit separate. It is $4,600 a slot. But you are not—an employer is not allowed to take the tax credit at the same time he is getting a piece of this private sector initiative money.

Senator BURDICK. You mean you do it the next fiscal year? That is a loss for that year, then. But have you considered both of those years as costs to the program?

Secretary MARSHALL. Well, an employee can only provide a target employment tax break after he finishes this program.

Senator BURDICK. Well, that is a loss of 2 years, then.

Mr. PACKER. We are talking per person.

Senator BURDICK. Have you put that in your calculations as to the cost of the slot?

Mr. PACKER. No, we have not. But I think we can prepare something for you on that basis.

Mr. ZUCK. It is not quite as expensive as it sounds, because if he is in the 40 percent corporate tax bracket anyway, he would be getting 40 percent——

Senator BURDICK. That is for the administrative costs?

Secretary MARSHALL. Now, that is for the whole program on-the-job training, and the added cost of getting those slots filled.

Mr. PACKER. Most of that money is tied up with an employer. You ask him to submit a training program. He says he is going to train somebody to do such and such, and we will pay him——

Senator BURDICK. But the next year you have another loss?

Mr. PACKER. That is correct, and we will put those together and try to get an estimate for you. You can go 2½ years, getting money from the Federal Government.

PUBLIC SERVICE EMPLOYMENT

Senator EAGLETON. OK. Back to the sheet.

Let me skip national programs for a moment. How about public service employment? How many slots?

Secretary MARSHALL. The total number of slots for last year——

Mr. EDES. Title II-D, we expect to have 267,000 slots in fiscal 1979, and maintain that 267,000-slot level through fiscal year 1980.

Senator EAGLETON. That is II-D? You have 267,000—no, that's not right. What do you have now?

Secretary MARSHALL. 111,000 now.

Senator EAGLETON. Well, if it was $2.5 billion for 111,000 slots, how do you, at the same gross dollars, more than double it?

Mr. ZUCK. Because we had in the—that is where we were having problems. That is what we were talking about earlier.

Senator EAGLETON. OK. Title VI, then, temporarily unemployed.

Secretary MARSHALL. At the end of 1979, it will be 358,000 slots, going to 200,000 by the end of the year.

Senator EAGLETON. OK. That is going down.

Mr. PACKER. That is the one that is going down.

Senator EAGLETON. All right. Now, the net aggregate of these public service programs in this year's budget is $5 billion; and next year, $4.7 billion. That is more than half of the moneys being spent totally on this entire range that are called CETA or CETA-related, right? Now, my people back in Missouri tell me that a great number of these jobs are sort of dead-end positions. Guys are hired temporarily. What is the maximum length of employment, 18 months?

Secretary MARSHALL. There has been no maximum until now.

Senator EAGLETON. So he is hired and put on the payroll, and he is working and he shows up at 9 o'clock and he gets his regular leave, and he does that for 18 months. Then what happens to him?

Secretary MARSHALL. Well, then we hope that he gets a job in the regular economy.

Senator EAGLETON. Well, we hope. But he has been raking leaves for a year and a half.

Secretary MARSHALL. Well, that is the reason for putting him in there. The title II-D will also have training. If we trained him for something, there will be an expectation by the CETA system that the person will be placed. And they will have to submit a plan to move these people into the regular economy.

And since we believe that it is serious, we want to put in a plan again to observe, and we want to monitor the observer and we want to monitor the observants. If they don't do what they say they are going to do, we can take the money back. They are followed up for this year.

Mr. EDES. The preliminary plans came in on January 26, and they are now under the process of being reviewed.

Senator EAGLETON. How many do you think are serious?

Secretary MARSHALL. I think they are all serious. But the important point is that once we accept the plan and work it out, then we intend to work to monitor and see that they are observing everything.

And one thing is, the people do need training. This is a heavy emphasis in the CETA system. You provide a wide array of employment training services to the prime sponsors to meet their needs. So if they put on somebody in the steel industry, they say, we are going to need people in the electronics plant. Then they come up with an identification of those jobs they are going to be training

those people for, and if they have a job that relates to that in the city or for a nonprofit community-based organization of some kind, they all start giving some combination of work experience and training in order to get the people into that job. Otherwise, St. Louis will have more unemployed people than they need to have.

If they do the job right, they can reduce the unemployment. If they don't, they will have more people.

TITLE VI IN THE REAUTHORIZATION

Senator EAGLETON. Do you see, then, the trend being for title VI, temporarily unemployed, the trend line you say is going down? It probably will go down for fiscal 1981, as you see it?

Secretary MARSHALL. Well, the good thing that we did, I think, in title VI in the reauthorization, was to provide a safety valve. The reauthorization provides if the unemployment goes very high, much higher than we anticipate, then we can send up a request for additional title VI jobs. These are—the title II-D's are structural jobs, and we believe that, barring some unforeseen event, that the main unemployment problem that we will face in the immediate future will be structural, leaving these people with very high rates of unemployment.

But we do have a safety valve in VI, if the unemployment rate goes up.

Mr. PACKER. Senator, I think it is important to understand just the direction of the jobs that people in the general economy take. It is especially true for the disadvantaged persons.

I don't remember the numbers now, but I was looking at something just the other day about the short duration of the typical job in the private economy. And if my recollection serves me right, the average person takes a job that lasts less than 18 months, the average placement is less than 18 months in the private economy. I can prepare for the record just what the turnover is.

But for the people who have structural problems, the 18-month job is much longer than the usual jobs they get.

Senator EAGLETON. Well, I am sure you have statistics to back that up and I don't quarrel with that. But my concern is—and I'm not opposed to people getting jobs. But I just wondered if the public service sector, if it is all just leaf-raking.

Secretary MARSHALL. There is very little leaf-raking. And in which case they can put people to work doing that, they have to decide there what, you know, what is the best use of the resources. We are impressed with the list of things that are being done around the country with the public service jobs. And there is very little leaf-raking. Most of the jobs are placed in the services area, doing things for elderly people, home health care being a popular thing. Most of these youth programs are related to some kind of physical improvement activities of some kind.

It is an impression I have of environmental work, park work services——

Mr. EDES. Senator, let me just add that one of the other advantages in the private sector program is that this is being created to help implement that part of the budget, also in accord with the statute in terms of our operation. The intent is that the CETA

system should work as a whole to provide the whole array of employment services.

And I think this is something that will also help facilitate the better movement.

EFFICIENCY OF MULTIPLE PROGRAMS

Senator EAGLETON. Well, as I say, I alluded to private sector programs and I am supportive of heightened emphasis on that facet of it, as there was a lessening of emphasis on some of these others.

Well, Mr. Secretary, to summarize so far, we have been talking about 10 programs with many thousands of slots and many billions of dollars. Are you convinced that it is efficient to have such a multiplicity of programs? Wouldn't we perhaps do better to administer fewer programs with greater intensity than more programs with a scatter-shot approach? Or do you think each one of these areas of approach requires a different target?

Secretary MARSHALL. Well, I think this is particularly true with the kind of program we put together. It is not the same for young people and old people.

Senator EAGLETON. I haven't gotten that far down on the sheet.

Secretary MARSHALL. You wouldn't want to have a Job Corps program for older people. These people don't have these kinds of disabilities. I think that the thing that we need to do is to simplify it as much as we can. I think we can simplify the youth program system. We went to a lot of trouble to build demonstration projects and monitor them to learn what works and what doesn't work. We hope to get that all analyzed, and then we can develop one youth program for which models are available.

Now, I think we will always have something like the Job Corps, which does relate just to prime sponsors. That is a national program. We are getting more of those. We want to get close enough to the homes of youth. That is the reason why we don't——

Senator EAGLETON. Yes, I get you.

Secretary MARSHALL. Now, we will have some other activities. We will have some welfare reform demonstration projects to learn more about employment activities as a way to provide jobs and train people on welfare. But once we learn that, those projects will phase out and we will phase them into the regular system.

OLDER AMERICANS

Senator EAGLETON. Give me the slots on the older Americans.

Secretary MARSHALL. 47,500.

Senator EAGLETON. And the same number next year?

Secretary MARSHALL. Yes.

ALLOCATION OF SUMMER YOUTH FUNDS

Senator EAGLETON. Senator Chiles is very concerned about Secretary Marshall's statement that the Labor Department is going to allocate the Summer Youth funds next week. This would keep this committee from doing anything to focus on the upcoming summer.

Is there any way you can hold off that allocation for a couple of weeks or so, so that maybe some conversations could be had between this committee and your Department?

Mr. EDES. I think it might affect and defeat the purpose of what we are trying to do.

Senator EAGLETON. Well, that is what Senator Chiles is interested in.

Mr. EDES. I understand that. Last year, after the summer of 1977, we began to see some of the problems that many prime sponsors were having with the program. We developed a new set of regulations to bring tighter management to the CETA program. We were not able to complete the publication and development of those regulations until last May, which gave the prime sponsors very little time between May and the beginning of the summer to really implement all of the aspects of that activity.

At the same time, there were complaints that they got their allocations later than usual. It takes a long time to plan a good summer program. You almost have to invest as much effort for a 6-month program as a 12-month program. The prime sponsors need to know how much money they are going to receive in each prime sponsor area, so they can begin to work intensively on those plans for the summer.

Issuing the allocation would not preclude us from working with the committee in terms of tightening up further on the management of the CETA program. We think this summer is going to be a lot better than the last summer, because there will have been a greater opportunity to implement the requirements as a general practice, the way the prime sponsors undertake the summer activities.

But to delay it more than it has already been delayed is to delay the ability of the prime sponsor to plan and to carry out the programs more effectively.

Senator EAGLETON. Well, we are not proposing to delay it to May. I couldn't agree more that it gets too late in the year, and then we will be inviting slipshod programs and further abuses. And the Secretary doesn't want further abuse and neither do we.

What I might suggest is that you get your folks in touch with Senator Chiles, who is not here today, early next week. He has a keen interest in this and he is a very dogged investigator. He sticks to something, and he is keenly interested in this.

And I think he ought to be fully apprised of what your plans are, and you should be aware of what some of his misgivings are.

Mr. EDES. One of the key recommendations to the GAO report, Senator, is early allocation of those funds.

Senator EAGLETON. That is true. We are talking about a modest time period. We are not talking about delaying to May or even early April.

Secretary MARSHALL. It is one factor that we——

Senator EAGLETON. Well, be in touch, then, with Senator Chiles.

IMPROVING MANAGEMENT OF SYSTEM

Secretary MARSHALL. That is one of the problems in the area. We think that one way to improve management of the whole system in the future is to try to give it more certainty.

We are going to make them repay money if they spend it contrary to the regulations. But if somebody is going to have to repay money, they are not going to hire until they are sure. So one thing that makes a lot of sense is to provide earlier funding so that people can do more planning and earlier notice.

TITLE III

Senator EAGLETON. OK. We skipped title III. So let me move to title III.

Give me a description of what kind of programs are involved here. Who runs them?

Secretary MARSHALL. Title III is where we fund national programs. I have a list here, of the kinds of things that are involved in that. It is to support things like OIC, Friendship Outreach, AFL-CIO, jobs for the elderly under title IX, ETA, demonstration practice, minority groups, promotion and development contracts—are some of the main categories.

Also on the list are private sector initiatives, as I talked about, and we have already discussed CETA evaluations, continuous longitudinal surveys that have given us a lot of information about people through time—just skipping around, there is a long list of things. The Employment Service, the Job Service Employment program——

Senator EAGLETON. Well now, who are the targets in this program?

Secretary MARSHALL. The targets tend to be various groups, some of which are stipulated in the act—minorities, veterans, migrants, seasonal farmworkers, displaced homemakers, older people.

Let me make available to you, Mr. Chairman, the list, and you can see the kinds of things we are talking about. I believe you are familiar with this. The National Association of Retarded Citizens; a number of union and private organizations. So that you can see something of the nature of the groups that are involved in this.

FUNCTIONS OF THE PROGRAM

Mr. Godwin is responsible for the national program. Why don't you add to that?

Mr. GODWIN. This includes minority programs, all are targeted to various minority groups, special programs for handicapped workers, special work for older workers, special programs for women, special programs of the promotional and developmental nature where we engage organizations to assist in this to help us with programing, and the AFL-CIO to help us in training; national on-the-job training contracts with private organizations, such as the one you have in Southern Railways, skilled occupations, agencies in the railroad industry.

We have grants we award to organizations such as National Urban League, OIC, National Puerto Rican Forum. We provide

assistance to the national organizations to enable them to provide training and technical assistance to their local affiliates, who in turn obtain fundings from local CETA prime sponsors.

We also administer special programs for persons with limited English, as required by the law. In addition to title III, we administer research and development activities. A wide variety of our activities are designed to better coordinate various employment training programs in the Department and between agencies.

Secretary MARSHALL. There is a misnomer applied to that category called discretionary funds. I haven't found a lot of discretion, but it is used for a lot of good things.

Senator EAGLETON. Well, this is really a good list, then. I mean, the older Americans organizations, which is another committee I have, and we have programs that finance some of that through national contractors. And of course, they love that. It is Federal money, and—for instance, the Brookings Institute, they get $260,000 to do what?

Mr. GODWIN. That is the research contract which involved both research and evaluation. One of the things the Brookings Institute did for us last year was to study the degree of substitution in CETA programs. This enabled us early on to get a handle on the extent we might correct them.

Secretary MARSHALL. My recollection is that it was considered.

Senator EAGLETON. Are these pages, Mr. Secretary, that you gave me, is this a listing of every recipient of funds under title III?

Mr. EDES. I believe so. We will doublecheck it to make sure it was accurate.

ACRONYMS

Senator EAGLETON. Well, there are just dozens, and dozens, and dozens. I don't know what some of these are—like RT-3—basis at $6 million.

Secretary MARSHALL. That is Friendship Outreach, to get minorities and women into the job market.

Senator EAGLETON. NTULS—Philadelphia. BACOPO? [Laughter.]

Mr. GODWIN. That is an opportunities program.

Senator EAGLETON. Has Senator Proxmire ever looked at this list? [Laughter.]

FOFP Foundation?

Mr. GODWIN. That is an organization in placing epileptics in jobs and working with emloyers to assist them in overcoming some of their attitudes against the placement of epileptics. It is a very effective program.

Senator EAGLETON. I've heard some of the advertisements for it.

Young Israeli?

Secretary MARSHALL. Those are discontinued.

Senator EAGLETON. Yes, but what was it?

Mr. GODWIN. This was a project that was basically—English as a second language project. Russian immigrants became trained in the English language and we placed them in private sector jobs.

NATIONAL GOVERNORS ASSOCIATION

Senator EAGLETON. National Governors Association. That is one to be discontinued. They have $83,000.

Mr. GODWIN. Well, that was a one-shot deal. We funded the National Governors Association to assist us in working with the balance of State and prime sponsors to implement a special initiative, such that we got slots from prime sponsors which they in turn placed in an HEW community to augment the staff of the facilities and to train unemployed people.

The Governors Association assisted us in this to provide slots for that purpose.

DISCRETIONARY FUND

Senator EAGLETON. Would it be fair to say this fund, Mr. Secretary—it is, in a sense, discretionary. You and your staff looked at this, you said, this might be an interesting thing to test out. Is this sort of a think tank money and demonstration type money, to take a multiplicity of approaches to see what might work, et cetera?

Secretary MARSHALL. There is some of this, as in any case. But the law requires that certain population groups be served under this. The language training, for example, is stipulated in the law; the theory being that if you are unable to speak English you're going to have trouble getting a job, and therefore English is a job skill.

Migrants—the stipulation that migrants be served—it is not stipulated who will serve them. And that is part of the stipulation. The funds tend to be allocated or earmarked in a certain sense, and it is stipulated that certain groups be served. But then we select a group to do the serving. But most of it is for them. It is really not mainly research and demonstration money. It is mainly project money. There are some kinds of things that make sense to do on a national level, rather than doing it entirely by the prime sponsors, as we test certain problems.

Senator EAGLETON. Now, are these administered throughout the Office of the National Programs?

Secretary MARSHALL. Yes.

Senator EAGLETON. Now, is that office being eliminated? Is there a proposal to eliminate it?

Secretary MARSHALL. There is some discussion of rearranging it, but there has been no decision made. It was one of the suggestions made, how to organize, how to make ETA more efficient.

TITLE III FUNDING ALLOCATION

Senator EAGLETON. All right. This title III, in terms of your funding allocation, was $372 million last year. You are proposing $326 million this year, and what is that, a $46 million decrease? Well, why is it down?

Secretary MARSHALL. Well, it is down mainly because of the budget constraints problem, and that is one reason. The second reason was the assumption that if any of these activities that we had been funding are now to be funded by the prime sponsor directly, and therefore, that the total amount of money spent on these kinds of functions need not diminish, even though we diminished the national program. In other words, some projects were already demonstrated as having been an effective model. The question is, if we make that available to prime sponsors, the people who

have been demonstrating will now go to the prime sponsor and get support.

Senator EAGLETON. I see.

Senator Schweiker also had a question in this area. He's worried that if we cut it back by $46 million, some such community-based organizations such as OIC which are doing excellent work will be cut off. Are you saying that that's probably not going to be the case? You are going to be determining in advance where the programs already have proven whatever was to be proven?

Secretary MARSHALL. Yes. Most of them get money from CETA programs. There is no question that there will be tough decisions to be made. It is not an easy thing for us to do. But a decision had to be made in order to meet the requirements.

Senator EAGLETON. I will have printed in the record entirely the summary sheets of the projects Secretary Marshall handed to me.

Secretary MARSHALL. Let us check that.

Senator EAGLETON. And keep on the list the ones that have been terminated, too.

Mr. EDES. Those are ones that were terminated in fiscal 1978 from their previous funding.

Senator EAGLETON. But leave them in the summary list. I want them part of the record.

We would like to use this sheet as a starter by program for this fiscal year, amounts outlayed, amounts obligated, and amounts projected to be carried over.

Secretary MARSHALL. Yes.

Senator EAGLETON. You will provide that for us?

Mr. ZUCK. Yes.

[The information follows:]

JOBS FOR ELDERLY ($-000-)

Projects	FY 78	FY 79
New Yor' City	$ 4,305	$ 4,000
National Retired Teachers Association/ Association of Retired Persons	10,092	5,000
Western Michigan Area Office on Aging	330	350
Great Lakes Inter-Tribal Council	342	350
National Council on Aging	1,577	800
North Carolina Office on Aging	173	25
Family Services of Greater Lowell	66	50
National Center on Black Aged	58	25
Amigos Del Valle	330	300
Mississippi Council on Aging	296	200
Illinois Office on Aging	871	800
Indiana Office Services to the Aging and Aged	429	350
Virgin Islands Office of Aging	72	50
Other Jobs for Elderly Projects	832	6,300
TOTAL	$19,773	$18,600

MINORITY GROUP SKILL TRAINING ($-000-)

Projects (Targetted Outreach Program)	FY 1978	FY 1979
NUL	6,213	6,406
Women in Apprenticeship (S.F.)	108	108
Delaware State	65	65
NJ DOL & I	156	156
PREP (Cincinnati)	308	273
RTP (Basic)	6,358	5,639
RTP (MWEP)	1,449	1,449
NTULC (Philadelphia)	181	181
UAW	588	521
BACOP (Oakland)	438	388
HRDI/AFL-CIO	1,889	1,889
Mex. Amer. Opp. Found. (LA)	296	263
SCACOP (So. CA)	392	348
IAFF	806	715
TULC (Detroit)	169	169
VACOP (Sacramento)	189	189
Denver YWCA	120	120
LATF (Chicago)	343	304
AOF (S.F.)	215	200
CAAP (Pasco, WA)	70	70
United Progress (Trenton)	79	79
Anchorage BCTC	160	-
Wisconsin State	31	-
SNAPS	171	-
Subtotal:	(20,794)	(19,532)

MINORITY GROUP SKILL TRAINING ($-000-)

Projects (National OJT)	FY 1978	FY 1979
AFL-CIO Appalachian Council	1,516	1,304
Nat. Assoc. Retarded Citizens	994	1,034
Nat. Machine Tool Bldrs. Assoc.	893	640
Graphic Arts Union	266	187
Southern Railway System	432	367
Goodwill Industries	500	520
Epilepsy Foundation	674	701
NJ Nat. Guard (LEX)	272	50
Printers Union (WA)	103	103
Green Thumb	555	492
Laborers Union	665	590
Bricklayers Union	830	736
Electrical Workers Union	606	537
Nat. Assoc. Homebuilders	1,610	1,428
Painters Union	756	671
UAW	1,503	1,333
Carpenters Union	1,727	1,532
Plasters Union	1,205	1,069
Int. Assoc. Rehab. Facilities	281	292
Nat. Precision Machining Assoc.	2,120	1,880
Operating Engrs. Union	1,922	1,761
Textile Workers Union	572	507
Amalgamated Clothing Wkrs. Union	1,771	800
Furniture Workers Union	433	384
HEAD	550	488
Ironworkers Union	2,326	2,063
Young Israel	208	-
Teamsters (PA)	341	-
Operating Engrs. Union (Guam)	450	-
Nat. Assoc. Homebuilders (Plast/Masons)	152	-
UFW/NFSC (App. Contract)	121	-
Giant Step	260	-*
Subtotal:	(26,614)	(21,469)
TOTAL:	47,408	41,001

* Funded from different category.

PROMOTION AND DEVELOPMENT ($-000-)

Projects	FY 1978	FY 1979
Center for Com. Change	$ 393	$ 282
Health Educ. Resources Inc.	103	94
Univ. of Texas (Austin)	173	125
NAPNOC	262	52
Fed. of So. Coops.	131	125
HRDI/AFL-CIO	5,351	4,411
Mainstream Inc.	335	297
UNCF	542	481
Geo. Meany Labor Center	298	264
Electronics Indus. Foundation	325	338
Pre-Retirement Planning Center	116	116
Fed. Bonding and OPG's	375	474
Nat. Governors Assoc	83	-
A. Phillip Randolph Found.	632	- *
70001 Ltd.	792	- *
Nat. Urban Coalition	399	- *
Assoc. Yeshivas	108	-
Nat. Cent. Black Aged	135	-
Carpenters Union (App. Standards)	157	-
AIECA	100	-
HRDI/AFL-CIO (Arts)	228	-
Amer. Assoc. Small Cities	775	-
Tribal Employment Rights Counc.	30	-
State of CA (Lt. Gov.'s Ofc)	59	-
COGME	100	-
Nat. Manpower Inst.	131	-
Chemung Co. NY	150	-
Geo. Wash. Univ.	492	-
Amer. Assoc. Com. & Jr. Colleges	112	-
Totals:	$ 12,887	$ 7,059

*Funded from different category.

COMMUNITY BASED ORGANIZATIONS ($-000-)

Projects	FY 1978	FY 1979
OIC (Academy)	$ 500	$ 439
SER Jobs for Progress	2,694	2,366
NUL	1,600	1,300
Coalition United Com. Action	-	450
OIC Basic	3,546	3,145
Nat. Urban Indian Coalition	300	266
Other CBO's	-	395
Nat. Council of La Raza	336	-
Totals:	$ 8,976	$ 8,361

PROGRAMS FOR PERSONS WITH LIMITED ENGLISH-SPEAKING ABILITY ($-000-)

Projects	FY 1978	FY 1980
EPA	$ -	$ 533
Nat. Puerto Rican Forum	1,639	1,454
Totals	$ 1,639	$ 1,987

KEY TO ACRONYMS IN TITLE III

NUL -- National Urban League

IAFF -- International Association Fire Fighters

MWEP -- Minority Women's Employment Program

SNAPS -- State/National Apprenticeship Program System (ADP System)

HEAD -- Human/Economic Appalachian Development

NAPNOC -- Neighborhood Arts Program National Organizing Committee

UNCF -- United Negro College Fund

AIECA -- Association of Independent Electrical Contrators of America

COGME -- Council for Opportunity in Graduate Management Education

DVOP -- Disabled Veterans Outreach Project

FY 1979 CETA TITLE III SECRETARY'S DISCRETIONARY
AS OF 2/26/79

OFFICE/PROJECT	FY 1979 PLAN
DISPLACED HOMEMAKERS	$5,000,000
OTHER CONTRACTS	$5,813,498
RESEARCH/MIS PILOT PROJECTS	$6,800,000
TARGETED JOBS TAX CREDIT	$4,600,000
SUB-TOTAL - MISCELLANEOUS	$22,213,498
DISCRETIONARY TOTAL	$216,700,498

RECAP:

FY 1979 NOA	173,159,000
STIP National funding	21,800,000
FY 1978 Carryover	12,550,498
Ind.-Mig. Suppl.	8,641,000
Prog. Supp.Reduct.	550,000
	216,700,498

NUMBER OF PUBLIC SERVICE JOB ENROLLEES

Senator EAGLETON. Last October, the Labor Department was estimating there were 710,000 public service job enrollees on board. This February, you told us the enrollment level as of last September 30 was about 600,000, and that it has dipped now to about 517,000.

Why was your data so bad last fall, and what are you doing to prevent reoccurrence of the situation?

Secretary MARSHALL. Well, one of the problems we had was that it was collected on a quarterly basis. Now it has gone back to a monthly basis, so we have more current data and we are keeping up to date. So we are getting it each month. We also had a lot of uncertainty in the program. It is always difficult to project this. The prime sponsors didn't get their money until well into the fiscal year. They couldn't spend it before they got it. We tried to urge a lot of them to do it, to borrow the money on faith that we would get it to them, but many of them didn't have that much faith. So they cut back.

MONITORING SUMMER YOUTH FUNDS

Senator EAGLETON. All right. And in your press release on the summer youth program, you indicated regional staff was instructed last year to conduct at least 30 site visits during the summer to monitor the quality of work experiences. What evidence do you have that this monitoring was actually carried out? And I'm referring to the GAO report that seems to conclude that it wasn't.

Secretary MARSHALL. Well, we will give you evidence on that.

Senator EAGLETON. How frequently do regional administrators withhold CETA resources, particularly with respect to the summer youth program, where project sponsors have not developed programs meeting requirements?

Secretary MARSHALL. Do you know that, Bill?

Mr. REISE. Senator, that question was raised in the House last week, and we are in the process of preparing an analysis for Congressman Michel, I believe it was.

Senator EAGLETON. Send us a carbon copy.

[The information follows:]

Sponsors Rated Serious Problems For FY 1978

Listed below are 53 prime sponsors determined by the Department to have had **serious** problems in meeting program requirements in Fiscal Year 1978 and whose Fiscal Year 1979 funding warranted careful monitoring. Indicated in the table below are FY 1979 funds which a prime sponsor was eligible to receive under CETA programs along with the FY 1979 amounts actually received.

In regard to the Summer Youth Employment Program, resources are allocated by law to prime sponsors. There are between 150,000 and 165,000 worksites for the summer program, many of which are individual sites. As a prime sponsor may operate up to six individual CETA programs and federal agencies are under a mandate to reduce reporting requirements, we do not collect data nationally on subgrantees or sites.

However, in FY 1977 regulation changes were issued to improve the plan process, strengthen the approval criteria and monitoring:

1) Written worksite agreements were required covering supervision and accountability.

2) Prime sponsors were required for the first time to establish procedures for monitoring worksites.

Further changes in regulations were made in 1978 to improve performance:

1) Administrative provisions were tightened to require in the selection of subgrantees consideration of previous performance, financial management capability, the qualifications and background of persons with operational and fiscal responsibilities, performance under other Federal programs, and the provision of training for personnel. Each prime sponsor was required to have an updated list of worksites and to monitor worksites to assure meaningful work, attendance and the like.

2) Provision was made for the immediate termination of subgrants or contracts upon the Secretary's determination of "good cause." The provision is also applicable to prime sponsors who may exercise such judgment for the Secretary.

Sponsor	FY 1979* Funding	FY 1979 Amount Received
Bridgeport Consortium, Connecticut	15,345,590	Monthly funding
Hartford Consortium, Connecticut	19,668,596	Monthly funding
Kennebec County, Maine	3,981,401	3,981,401
New Hampshire, Balance of State	9,376,315	9,376,315
Rockingham Strafford Consortium, New Hampshire	5,742,642	5,742,642
Hampden County Consortium, Massachusetts	20,489,694	20,489,694

Sponsor	FY 1979 Funding	FY 1979 Amount Received
Worcester Consortium, Massachusetts	12,657,031	12,657,031
Massachusetts Governor's Grant	8,747,648	8,747,648
Maine, Balance of State	23,727,269	23,727,269
Nassau County Consortium, New York	21,915,619	21,915,619
Westchester County Consortium, New York	26,148,192	Quarterly funidng
City of Albany, New York	4,412,937	4,412,937
Essex County, New Jersey	22,845,104	22,845,104
Passaic County, New Jersey	14,768,001	Quarterly funding
Virgin Islands	7,659,496	7,659,496
Fayette County, Pennsylvania	7,592,809	Quarterly funding
Franklin County, Pennsylvania	3,606,411	3,606,411
Lawrence County, Pennsylvania	4,000,801	Quarterly funding
Washington County, Pennsylvania	8,458,691	8,458,691
Bucks County, Pennsylvania	15,660,283	15,660,283
Roanoke Consortium, Virginia	8,027,674	Quarterly funding
District of Columbia	40,109,088	40,109,088
Onslow County, North Carolina	This prime sponsor voluntarily joined the Balance of State for FY 1979	
Mid Georgia Consortium, Georgia	11,719,258	11,719,258
Georgia Governors Grant	6,979,932	6,979,932
Palm Beach County, Florida	21,284,983	Monthly funding
Dade Monroe Consortium, Florida	75,085,685	Quarterly funding
Butler County, Ohio	9,117,519	9,117,519
Hamilton County, Ohio	9,121,232	Monthly funding
Illinois, Balance of State	75,792,448	75,792,448
Lake County, Indiana	5,409,400	Program currently operated by Region
Indianapolis, Indiana	31,286,447	Funding every 2 months
Indiana, Balance of State	70,759,484	70,759,484
Madison Dane Consortium, Wisconsin	4,239,676	4,239,676
East St. Louis, Illinois	The city of East St. Louis was not funded as a prime sponsor for FY 1979. Program operations taken over by the St. Clair County Consortium	
Texarkana Consortium, Texas/ Arkansas	1,841,599	Quarterly funding
New Orleans, Louisiana	24,356,552	Monthly funding
New Mexico, Balance of State	28,844,331	28,844,331
Houston, Texas	39,837,481	39,837,481
Fort Worth Consortium, Texas	15,396,365	Quarterly funding

* Does not include 1979 Summer Youth funds.

Sponsor	FY 1979 Funding	FY 1979 Amount Received
North Texas State Consortium, Texas	3,431,391	3,431,391
Kansas Governors Grant	2,072,848	Quarterly funding
Independence, Mississippi	2,375,815	2,375,815
Denver City/County, Colorado	19,928,258	Quarterly funding
Sunnyvale, California	3,567,577	3,567,577
Richmond, California	4,872,047	4,872,047
American Samoa	1,752,380	Quarterly funding
Guam	6,232,164	6,232,164
San Diego RETC, California	148,580,486	148,580,486
Trust Territories, Pacific Islands	3,245,425	Quarterly funding
Clackamas County, Oregon	6,101,388	6,101,388
Clark County, Washington	4,491,862	Monthly funding
Cane County, Oregon	11,674,816	11,674,816

Secretary MARSHALL. The past does not necessarily guide the future, because our ability to withhold is now greater than it was before.

FUNDS FOR YOUNG ADULT CONSERVATION CORPS

Senator EAGLETON. Well, let me say this, Mr. Secretary. Are you finished?

Well, perhaps if you are looking to make a big cut, why don't you make a bigger reduction in the Young Adult Conservation Corps? That one has the highest unit cost and only 40.6 percent of the participants are disadvantaged?

Secretary MARSHALL. Well, the answer is we made a big cut. We cut it more than any other program. We cut it in half. It is a good program. The reason we cut it in half was because of our concern about the cost of it and the need to target more.

But we still think that it has some merit. It is one of the places we get a mix of disadvantaged and nondisadvantaged young people in the program.

Senator EAGLETON. Well, although you cut the slots, that is true——

Secretary MARSHALL. We cut the money, too.

Mr. ZUCK. The budget authority drops from $217 million in 1979 to $166 million in 1980. However, we have the carryover problem. When we look at outlays, they drop from $307 million in 1979 to $153 million in 1980.

BETTER MONITORING OF CETA FUNDS

Senator EAGLETON. Well, let me say this in conclusion, Mr. Secretary, I am grateful for your able presentation, and I will repeat what I said the other day, when Mr. Green was here with some of his information. I think some of the CETA programs—they are going to have to be monitored far more closely than they have in the past. And I take into account the changes you have made in the past, because Senate and House Members are looking around

for places to save money. And these programs, you know, are pretty sizable amounts. And I hope that maybe you can take a second look at your staffing for the Inspector General Office.

Not to belabor my personal pet—it was my bill, and that is why I am interested. But I think money invested there would pay enormous dividends. I'm not trying to have you build a big empire or overload you with personnel that you don't need, but trained investigators, trained to monitor these programs and monitor them while they are going on and nip the fraud in the bud, so to speak, will pay enormous dividends.

And even with good prevention, there are going to be some problems. But when you have $9 to $10 billion, that is a prime target. Somebody says, there is a lot of money there and let's see if we can get our hands on it.

So I hope you are going to be satisfied that you have the staff to truly monitor these programs on an ongoing basis.

Secretary MARSHALL. We do intend to give that very careful consideration.

I think it really would be difficult to argue that it would be useful to take a cut of the program. That is a good investment for people, I think, to reduce unemployment by at least 1 percentage point. And all of the estimates indicate that the immediate loss to the unemployment ranks would be greater than the total amount that we spend on all these programs.

Then you have people on unemployment, they wouldn't get what they are getting now either.

Senator EAGLETON. Well, I think that is a valid point, and I think I speak for the members of the committee that the private sector initiative is—I know Senator Schweiker has talked to this point—that the private sector initiative is, I think, an important one. We are trying to train people better so they can get jobs that have a future where there is a chance of upgrading, enhancement, et cetera. The private sector seems to deserve the kind of emphasis that you want to give to it. And I applaud you for that.

Secretary MARSHALL. If there are any problems, we would be glad to continue working with you and your staff to work those problems out.

Senator EAGLETON. Very well. Now, there will be some additional questions put to you in writing.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

FARMWORKERS

Question: Responsibility for the inspection of temporary farmworker housing rests with three Labor agencies -- the U.S. Employment Service, the Employment Standards Administration and the Occupational Safety and Health Administration. Have any plans been made to place the responsibility for inspections totally under one of these agencies?

Answer: At present, the U.S. Employment Service, the Employment Standards Administration and the Occupational Safety and Health Administration are inspecting temporary farmworker housing pursuant to their statutory or regulatory responsibilities. There is no current plan to place the responsibility under a single agency. The extent of each agency's responsibility is different: The U.S. Employment Service has jurisdiction for pre-occupancy inspections of temporary labor housing provided for farmworkers pursuant to an Interstate Clearance Order; the Occupational Safety and Health Administration inspects occupied temporary labor camps or camps which will imminently be occupied; and the Employment Standards Administration has coverage only on camps owned or controller by Farm Labor Contractors. There is, however, coordination among the three agencies to provide the greatest coverage and protection to farmworkers with minimal investigative overlap.

IMPACT OF MINIMUM WAGE INCREASE

Question: How many layoffs of low-wage workers have resulted from the January 1, 1978, minimum wage increase to $2.90 up from $2.65?

Answer: There is no indication at this time that the $2.90 minimum wage has resulted in layoffs of low-wage workers. The $2.65 minimum wage appeared to have no adverse employment effect. During 1978 employment increased by 3.3 million.

Question: Is there any evidence that employment might be cut substantially by attrition due to the impact of the minimum wage hike?

Answer: Such employment reductions have not been ascertainable from the aggregate data available. Moreover, some time sill have to elapse before any conclusions can be drawn regarding the effects of the $2.90 minimum wage.

In the months following the increase in the minimum wage to $2.65 on January 1, 1978, employment increased considerably in the aggregate. During 1978, employment increased by 3.3 million and unemployment decreased by 175 thousand. There were employment gains in every major nonfarm industry and all major worker groups.

DECLINE IN PSE ENROLLMENT

Question: Weren't you surprised at the sharp decline in public service jobs enrollment so far in this fiscal year (ceiling: 625,000; present enrollment: about 517,000)?

Answer: The Department was aware that requirements of the new Act and the delay in the Fiscal Year 1979 appropriations would impact on PSE enrollment levels. In fact, instructions issued by the Department in July alerted prime sponsors to expect an overall decline in PSE enrollments, as well as a significant change in enrollment levels between Titles II-D and VI. Therefore, we did expect a decline in PSE enrollments overall and particularly in Title VI. We also recognized that, in light of the new requirements in Title II-D, the buildup in this title would not, at least initially, proceed at a rapid pace. The delay in the appropriations simply extended the period of time of the adjustments necessary due to the overall decrease and the change in emphasis between titles. It especially delayed the start of the buildup in Title II-D while the decline in Title VI continued. The result was that we have declined to a level which, initially we would not have expected, but which is not surprising in light of the actual events which occurred.

Question: Do you feel the Department was not sufficiently alert to the possibility of this drop-off?

Answer: As indicated above, the Department recognized and issued instructions which provided for dealing with the anticipated sequence of events. The actual sequence was somewhat different than those anticipated and this resulted in the situation we have today. However, there were few options available to the Department in terms of maintaining enrollment levels. Those that were available were implemented including authorizing the borrowing of funds, where possible, from other titles and programs. We also encouraged prime sponsors to use local funds, wherever possible, to maintain enrollment levels.

We had not totally anticipated the impact of the new average wage requirements contained in the revised legislation. This, as you know, has impacted on the prime sponsor's ability, in some areas, to rapidly build back up their enrollment levels. We are reviewing this situation to determine what action, if any, we can take to assist prime sponsors with this issue.

Question: Are you taking any steps to sharpen your monitoring of prime sponsors problems -- and activities?

Answer: We have implemented a monthly review of prime sponsor enrollment levels. Where they are experiencing difficulties, we intend to provide them with any appropriate assistance in resolving the identified problem. Where we feel the prime sponsor cannot resolve the problem, we will consider reallocation actions.

USE OF EXCESS PSE FUNDS

Question: You are projecting excess PSE funds of $400 million by the end of Fiscal Year 1979. Some people believe the excess could be double that figure.

Answer: The original budget estimate, based on an average Fiscal Year 1979 PSE enrollment level of 675,000, called for a carryout into Fiscal Year 1980 of some $900 million. A revised estimate based on an average enrollment of 625,000 called for a carryout of some $1,412 million. It is now estimated, based on the PSE underenrollment which occurred during the first 4 months of the fiscal year, that the carryout will be about $1.8 - $1.9 billion. We feel that the carryout will not exceed this estimate.

Question: How shall we deal with this excess -- cut back a like amount of the budget authority you proposed for the PSE programs in Fiscal Year 1980?

Answer: This would be one option. Another would be to use these funds to provide for a constructive phasedown from the levels of the prime sponsors at the end of Fiscal Year 1979 to the levels called tor by the Fiscal Year 1980 budget. With some extra funds available, prime sponsors would not be as likely to initiate the type of drastic reductions which occurred this fiscal year. It must be remembered that concern over funding levels was one of the factors precipitating the phasedown which then resulted in the excess funds being created.

Question: Why couldn't you simply take $400 million of the excess and reprogram it to fund the Private Sectors Initiative Program, instead of seeking a 1979 supplemental for PSIP?

Answer: The Department does not have the authority to reprogram these funds. Such an action would require congressional concurrence. Further, this action would also be extremely disruptive to the prime sponsor system in that it would require the development of new allocations for the Titles II-D anv VI programs and extensive modifications to reflect the new operating levels. Such an action could impact the system at this time in a highly negative way.

HIGH COST OF PUBLIC SERVICE JOBS

Question: It appears that less than half of public service jobs enrollees find jobs in the private sector.

Since it cost $9,500 for each public service job, doesn't this mean that the unit cost per placement in a private sector job is nearly $20,000?

Why aren't a higher percentage of public service jobs enrollees finding jobs in the private sector?

Answer: Dollar outlay information for the period October 1 of last year through January 31 of this year indicates the public service jobs cost rate is at $8,900. Our estimate is that the unit cost rate will not exceed $9,200 for this fiscal year.

The prime sponsor based information system indicates that 42 percent had jobs when they left the jobs programs in Fiscal Year 1978. However, our survey studies show that within a month after leaving the programs about 60 percent are in jobs. These data indicate that true cost per placement will be about $15,330 during Fiscal Year 1979.

Data on public vs. private sector employment after termination from the programs are now available from the Continuous Longitudinal Manpower Survey (CLMS) for participants who entered CETA (excluding youth work programs) in FY 1976. Of those employed in the first three months after termination, over 70 percent were working for private employers and less than 30 percent for public employers. By a year after termination, more had gone into private sector jobs: About 80 percent were then in private and about 20 percent in public jobs.

The distribution between public and private jobs varied of course, by type of activity. Participants in classroom training and on-the-job training were more likely to have jobs in the private sector. About 90 percent of them were working for private employers a year after termination.

Participants in public service employment, on the other hand, more often moved into unsubsidized public jobs, although the majority still went into private employment: In the first months after termination, an estimated 40-45 percent got their employment in public agencies and about 55 to 60 percent obtained private employment. By a year after termination, more had gone into private sector jobs, with about a third then working for public agencies and two-thirds for private employers.

PSE TRAINING PLANS

Question: In responding to a hearing question about the quality of public service jobs, you said that under the new structure program sponsors were being required to articulate in their plans specific new training programs to be associated with the structural jobs. You also said the Department is carefully reviewing those plans, and providing technical assistance as necessary to assure that the training is meaningful and well conceived.

In your statement on public service employment, you stress the Department's commitment to a rapid buildup in the new structural program.

How are these two objectives reconciled?

Which is more important?

Answer: We have in place a timetable designed to assure that all of the necessary actions are completed within reasonable periods. With respect to the development of plans, our schedule calls for completing this process by April 1, 1979. In the meantime, our staff is working with the prime sponsors and exchanging ideas on how best to meet the requirements of the new Act. This includes the development of meaningful job opportunities for the structurally unemployed under Title II-D. Further, we will continue to work with the prime sponsors as they implement these plans and to provide them with any necessary technical assistance. Where necessary and appropriate, we will work with the prime sponsors to revise their plans. This could happen for a number of reasons, including the fact that the original plan simply isn't working. In such cases, a new plan will be developed.

We do not feel that the commitment to a rapid buildup is in any way inconsistent with a well-developed plan. The buildup will be phased and will be structured so as not to overcommit the ability of an individual prime sponsor. This reflects our position that these objectives are of equal emportance. We do not want a rapid buildup which results in poor quality. At the same time we want to make sure that available services are provided to these individuals in need of such services as rapidly as possible.

FRAUD AND ABUSE

Question: Why do you believe there has been so much fraud and abuse in Labor Department programs?

Answer: I believe the publicity given fraud and abuse has given the impression that such activity runs rampant throughout the Department's programs, particularly in the CETA program.

I am presently convinced that fraud and abuse in Labor Department programs in general, and CETA in particular, results in the loss of less than 1 percent of program funds and as such represents a much lower incidence of loss than that experienced by retail stores in this country.

Question: Do you feel the concept of decentralization of authority, such as the use of prime sponsors, is not working?

Answer: Definitely not. The operation of a program the size of the present CETA program would be a near impossibility without the decentralization of authority presently utilized. The level of sophistication and expertise of the great majority of prime sponsors increases each year and results in better planning, operation and reporting of the programs.

Recognition must be given to the fact that prime sponsors are involved in a decentralized employment and training system with over 26,000 operating units of varying levels of management and operating capability.

Question: Is there much fraud and abuse in the National Programs that are directed from Washington?

Answer: During FY 1978, we received only 22 cases alleging improper activities within the hundreds of National Program projects. Seven of the cases alleged fraudulent activities while 15 cases represented allegations of mismanagement, poor recordkeeping, etc. It would appear that fraud and abuse within these programs is not extensive.

ACTIONS TAKEN ON FRAUDULENT UI CLAIMS

Question: You indicate that from July 1976 through June 1977, about $43 million in alleged fraudulent unemployment insurance benefits were paid to claimants.

What action was taken on these fraudulent claims?

Answer: This represented 122,461 individual cases. Each of these cases was assessed an administrative penalty and/or prosecuted criminally for fraudulently claiming benefits. Prosecutions were recommended in 12,195 such cases of which 4,506 were convicted. In addition, $15.9 million of fraudulent overpayments (not necessarily the identical same cases) were recovered during this period.

FRAUDULENT CLAIMS

Question: Do you have any figures on fraudulent unemployment insurance claims since June 1977?

Answer: Yes. During the 12 month period ending with June 1978, 12,636 fraudulent cases were detected. Fraudulent benefit overpayments amounted to $45.7 million. Each of these cases were assessed an administrative penalty and/or prosecuted criminally. Prosecutions were recommended in 11,559 cases of which 5,950 were convicted. During this period $18.6 million fraudulent overpayments was recovered.

FRAUD REDUCTION

Question: Is there any concrete evidence that the incidence of fraudulent unemployment insurance claims has been reduced since 1972?

Answer: No. We have no data as to the total number of fraudulent benefit claims. However, the number of fraud cases detected has increased 56 percent since 1975. One of the purposes of fraud detection is to deter others from filing fraudulent claims. Presumably, the increased detection activity together with the resulting publicity has acted to reduce the incidence of unemployment insurance fraud.

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BENEFITS CONTROL PROGRAM SAVINGS

Question: How much do you estimate is saved annually as a result of your unemployment benefits control program in relation to the cost?

Answer: Probably the most definitive figure of the amount saved as a result of the benefit payment control program is the amount of overpayments recovered. For the 12-month period ending June, 1978, a total of $58.6 million of improper payments was recovered. (This includes both fraud and non-fraud overpayments). This may be compared with the cost of operating the benefit payment control program for fiscal year 1978. For that period, 2,124.7 positions were used at an estimated cost of $43.5 million.

Additional, but undetermined amounts are saved by (1) discontinuing the payment of benefits to individuals who are determined to be filing improper claims and (2) by assessing an administrative penalty, applicable in fraud cases, which disqualifies the individual from drawing benefits for a number of weeks. The number of weeks varies, usually up to 52 weeks, depending on State law.

Furthermore, the detection of improper payments deters others from filing fraudulent claims. How much is thus saved cannot be estimated but is believed to be substantial.

STAFF EARMARKED FOR FRAUD AND ABUSE CONTROL

Question: You mentioned that you have 2,000 positions nationwide allocated to the Unemployment Insurance Service for benefit payment control.

How many positions have been allocated to the employment service and prime sponsors to control illegal CETA payments?

Answer: Since CETA was first initiated ETA has allowed local decisions within overall Federal guidelines. Within this framework positions are not allocated for any particular activity. With the CETA reauthorization, an increased emphasis has been placed on control of fraud and mismanagement. Prime sponsors are being required to strengthen or establish monitoring, eligibility control and financial management systems placing the primary emphasis on control of fraud and abuse. These systems must be approved by the Regional Administration. These requirements are placed on prime sponsors, who, in turn, pass the requirements down to subgrantees/contractors such as the Employment Service.

Question: Why are there so many less people checking CETA fraud and abuse, even though this program now spends just as much as the Unemployment insurance program?

Answer: It is difficult to compare the two programs because "systems" are required for fraud and abuse control in the CETA

program rather than allocated positions as in the Unemployment Insurance program. However, we believe that there will be more people engaged in the prevention of fraud and abuse in CETA than those allocated to the UI program. In addition to the systems, the prime sponsors are required to maintain the newly established Inspector General's office, will be combatting CETA fraud and abuse at the Departmental level. Within ETA, the Office of Investigation and Compliance is mounting a special program for the control of fraud and abuse. Prime sponsors are also monitored by Federal representatives who have a responsibility in this area.

PRIVATE SECTOR INITIATIVES PROGRAM

Question: I note that in FY 1979 and FY 1980, you plan to spend only $200 million of the $400 million you're requesting for private sector initiatives, with the remaining $200 million to be spent in FY 1981.

If that is the case, why do you need $400 million right now? Why not wait until you see the effects of the effort in the first and/or second years?

Do you feel the private sector is still skeptical of the PSIP program -- or do you feel you have enough of a commitment from the business community to get started on it?

Answer: Projected expenditures of PSIP funds are very rough estimates. Budget discussions early in FY 1978 envisioned new obligational authority of $400 million for each of the two years of the demonstration program (FY 1979 and 1980). Since then, many things have changed.

Subsequent refinement of our estimates resulted in projections of relatively low outlays and relatively high carryover due to the lengthy lead time required to implement employment and training programs in the private sector. Still, once basic mechanisms were in place, it was felt that expenditures could be effected at an accelerated pace. These assumptions projected expenditures at the rate of $400 million per fiscal year, with carryover of FY 1980 funds into FY 1981.

Revised projections are based on even later startup of PSIP than was originally projected -- late in FY 1979, rather than at its beginning. To coincide with the limited duration of the program, due to its demonstration nature, a FY 1980 appropriation was not requested since we now project carryover of FY 1979 funds into FY 1981. Whether this carryover would be as high as $200 million is difficult to project with any accuracy.

Other factors have also intervened. The authority to expend Title IID and VI funds for Title VII purposes is expected to be exercised by prime sponsors, and the Private Industry Councils (PICs) will have a role in implementation of the recently-enacted Targeted Jobs Tax Credit (TJTC). Thus, PICs will have

responsibilities not directly tied to Title VII funding that will supplement activities planned under Title VII. As a final note, the Department does not intend to curb Title VII funding, and since we have had no previous experience with this demonstration program, it is possible that actual outlays will exceed our projections, perhaps by a considerable amount. Our estimates are rather rough, at best.

The full $400 million requested is needed as soon as possible, in order to maintain our credibility with the business community. A smaller appropriation level, because of the Title VII allocation formula, would result in many prime sponsors receiving very small allocations. There would be only limited incentives for the private sector to become involved in local CETA programs in this event, and even less reason for prime sponsors to make the effort required to make the program a success. For example, at the $200 million level, more than half of the CETA prime sponsor system -- 238 of 460 prime sponsors -- would recieve less than $200,000 for Title VII programs. Legislative provisions would permit less than $40,000 to be expended for staff, rent, and other administrative purposes. These prime sponsors would clearly meet a great deal of skepticism on the part of the private business community by inviting its participation with such meager resources to offer.

The private sector has responded in a surprisingly favorable manner to the Title VII program. The demonstration nature of the program, the flexible regulations provided by the Department, and the willingness of prime sponsors to allow the private sector to design and develop its own programs have resulted in an unprecedented degree of enthusiasm for PSIP. It is important that the commitment of the business community be maintained by providing an early Title VII appropriation in the full amount requested.

TARGETED TAX CREDIT JOBS

Question: If Congress does not provide the $400 million you request for the Private Sectors Initiative program, won't this affect the eight percent set-aside that comes out of PSIP and goes into the Targeted Tax Credit Jobs program?

Answer: If Congress does not provide the $400 million requested by the President for the Private Sector Initiative program, then it would have a very detrimental effect on the eight percent set-aside earmarked in the PSIP request for the Targeted Jobs Tax Credit program. The negative effect would be to underfund the TJTC program.

Question: Isn't there a danger that because of this earmark the Tax Credit Jobs program won't get off on the right foot, or won't get off at all?

Answer: There is a risk that, because of this earkmark, and possible reduction in the $400 million request by Congress, the Department may not be able to fully mount and sustain the TJTC program.

The Department has allocated $3.8 million of CETA discretionary funds for the TJTC start up. However, the long-run program continuity is dependent on a full appropriation by the Congress of the $400 million PSIP supplemental which would yield no less than $32 million (8 percent) for the TJTC program.

WELFARE REFORM DEMONSTRATION PROGRAMS

Question: Until Congress actually passes a welfare reform program, isn't it premature to embark on a costly demonstration program that may or may not be relevant.

Suppose Congress decides not to pass a welfare reform program? Of what usefulness will your proposal be?

Answer: It's not premature to embark on this demonstration program for two reasons. First of all, it is important to understand that regardless of the exact features of the utlimate welfare reform package passed by the Congress, these demonstrations will provide usefull information relevant to its successful implementation. All of the major welfare reform alternatives considered by the Congress last year contain sizeable programs of employment and training for low income families. While some of them are more restrictive than the Administration's proposal, it will be relatively easy to generalize findings to more restrictive types of proposals. Moreover, since variations in employment and training approaches and administrative arrangements will be tested, it will be possible to apply the findings of the program to other proposals for reducing dependency among low income families.

Secondly, aside from their utility in implementing any welfare reform program we expect the demonstrations to have a large payoff in improved efficiency, effectiveness and integration of all employment and training programs at the local level. While the demonstrations will focus on one subgroup of the population eligible for assistance under the CETA program--heads of families with children--the findings will apply to virtually all CETA programs. For example, findings on the following demonstration research objectives are applicable to ways of improving the administration of the entire CETA system and not just to the implementation of a welfare reform program:

- o How best to organize and implement job search assistance.
- o Develop and evaluate alternative methods of creating employment and training suitable to varying client characteristics.
- o Develop management information and program monitoring systems.
- o Develop and test improved administrative structures for the job and training system.
- o Evaluate the adequacy of overhead allocations in different types of job creation, training and placement activities.

- o Study problems associated with particular types of labor markets including seasonality and use of migrant labor.

Question: Aren't you just creating another Public Service Jobs program with the proposed Welfare "Demo"?

Answer: No. It is not just another PSE program for two reasons. First, a variety of employment and training approaches will be tested in the program, not just Public Service Employment. For example, we expect that the 15 prime sponsors involved in the demonstration program will make heavy use of on-the-job training programs in the private sector. Secondly, the basic purpose of the demonstration program is not to provide services (i.e., jobs or training) to people but to provide valuable information to the Congress and the Administration on the best means of assisting welfare recipients to become self-sufficient.

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Question: I note you're planning to make a major cutback (from 1 million to 750,000 jobs) in the Summer Youth Employment program.

Why is this -- have you lost confidence in this program?

Answer: The cutback (from 1 million to 750,000 jobs) in the Summer Youth Employment Program" is not attributed to any loss of confidence.

The reduction requested related to the elimination of 14 year olds from the program. Their participation in this short-term program is relatively less important than participation by those closer to the labor market. There is consensus of opinion that 14 year olds can be better served in a year-round program such as the Youth Employment and Training program.

The reduce the program beyond the elimination of 14 year olds would severely damage the program. Most 15 year olds are in high school and/or at the point where they should begin to concentrate on future occupational roles. It is at this point that the economically disadvantaged youth need the most encouragement and access to employment and training opportunities offered by this program.

GAO REPORT ON SUMMER PROGRAM

Question: In view of the recent GAO report showing participants often got paid for doing nothing and frequently had no useful work to do, don't you think it might be wise to reduce the program even further -- to more manageable proportions?

Answer: In terms of "more manageable proportions," the elimination of 14 year olds from the program constitutes a 25 percent decrease in numbers of youth to be served. This would mean a heavier concentration on the quality of work experience and on-the-job training along with more effective supervision and skills training and providing continued supportive services such as remedial education and counseling.

SUPERVISION AND SPEDY ENROLLEES

Question: A big problem pointed out by GAO appears to be lack of adequate supervision of summer youth jobs enrollees.

Aren't most supervisors regular employees of sponsoring organizations such as city park departments?

Answers: While some supervisors are regular employees of sponsoring organizations, the national office in its team reviews last summer found that due to the nature of the summer program and the numbers of youths to be served, many adults were hired especially as supervisors. In some instances also, we found that the supervisory effort was reinforced by using an older youth as an assistant to the supervisor.

PSE ENROLLEES AS SUPERVISORS

Question: Are public service jobs enrollees used as supervisors of summer youth projects?

Answer: Though present data systems are not specifically structured to report this data element on a national level, the Department has encouraged the practice of using PSE enrollees as supervisors. Based on feedback from regional and prime sponsor staff, our understanding is that summer youth enrollees are often trained and supervised by PSE participants.

IMPROVING SUPERVISION

Question: What can be done to improve the quality of supervision this coming summer?

Answer: A number of steps have already been taken to improve the quality of supervision this coming summer. We have instructed prime sponsors to maintain the participant-supervisor ratio at 15:1, unless specific justification is provided that obviates the need. Where there will be more than 15 participants, we have stressed that 2 supervisors or 1 supervisor and 1 assistant supervisor be place on the site.

In addition, we are requiring that supervisors be skilled both in the activity they are supervising and be capable of training enrollees in that skill.

Also, DOL policy currently calls for Federal staff monitoring to give further specific emphasis to this aspect of the program.

GAO REPORT ON SUMMER YOUTH PROGRAM IN NEW YORK CITY

Question: A GAO report on the 1977 Summer program for Economically Disadvantaged Youth in New York City noted that project

sponsors from previous years were generally refunded with little consideration of their past performance and that major sponsors were automatically refunded.

Before funding any prime sponsor, does Labor make sure that the prime sponsor has received, reviewed, and evaluated written plans from each of its subcontractors?

Answer: The following regulations issued by the Department March 6, 1979, identify the general summer program management requirements including review and approval of subcontractor plans.

Program Management Provisions

Each prime sponsor shall:

(a) Provide adequate skilled supervisors to participants at each worksite.

(b) Closely monitor the performance of service deliverers in compliance with the provisions of the regulations governing the summer program, particularly the provisions of paragraph (h) of this section.

Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor's established goals.

(c) Ensure that enrollee applications are widely available and that jobs are awarded among the most severely disadvantaged in an equitable fashion. Each prime sponsor shall inform each participant of the purposes of the program, the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for work activities in the program and require a signature of the applicant or (in the case of minors) the parent, responsible adult, or guardian attesting to the accuracy of the information, especially income data, provided on the application.

(d) When using contractors or subrecipients, enter into contracts of subgrants in accordance with S676.37 of this title. Summer sponsors may enter into contracts or subgrants for those allowable activities or operations of the summer program only with organizations that have demonstrated sufficient program capability and shall have reasonable assurances that such organizations:

(1) Have sufficient capability to operate the program.

(2) Have financial management capability as required by S676.34 of this title;

(3) Assure in their applications that all proposed-worksites meet the requirements of this subpart, and that such worksites will

meet the standards of S680.210;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial non-compliance with the Act and regulations in operation during the terms of the previous year's summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all of their personnel will have basic training in the program and regulations before the summer program begins.

(e) Consider in selecting contractors and subrecipients the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants needs and local market demands);

(2) Provide the specific services contracted for;

(3) Restrict expenditures to allowable cost items, only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested.

(f) Require their contractors or subrecipients to:

(1) Have supervisory and operational personnel for monitoring each site to which participants are assigned;

(2) Assure that all sites, where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring.

(g) Compile and continually update a list of worksites divided by contractor and subrecipient to aid in its monitoring efforts and to be made available to the public on request.

(h) Visit worksites of each contractor or subrecipient on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is sufficient meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records are being maintained and accurately record time worked by each enrollee; and

(4) The requirements of the Act and this subpart are being met.

(i) Promptly review the reports written by its own and Federal monitors.

(j) Revisit worksites where monitors report problems.

(k) Close worksites where it finds serious or continual violations of the Act, the regulations or conditions of the contract or subgrant, and which are not likely to be remedied by quick remedial action.

MEANINGFUL WORK EXPERIENCE FOR SPEDY ENROLLEES

Question: What actions has Labor taken to insure that prime sponsors and their subcontractors are now providing meaningful work experience to youth enrolled in summer programs?

Answer: Actions by the Office of Youth Programs include stronger requirements in the Summer Youth Employment Program regulations for monitoring. This area of emphasis has also been included in the grant application instructions. The nature of work experience, though not yet to the desired level of quality, has substantially improved.

A sample of plans from the FY 1978 program shows participants jobs as including plumber aides, electrician aides, landscaping assistants, youth-tutoring-youth in remedial education skills hospitals assistants for the mentally and physically handicapped, and weatherization of low income housing, among others.

A book has been compiled entitled Summer Program for Economically Disadvantaged Youth (SPEDY) Monographs of 1978. These monographs exemplify a range of conditions and problems faced by prime sponsors and offer a variety of ideas and models for other planners and administrators, representing successful program efforts which comply with the program intent as well as the CETA legislation and regulations.

SPEDY ADMINISTRATIVE CONTROLS

Question: Since poor administrative controls seem to be a frequent problem in the summer jobs program, has Labor taken any action to determine that the prime sponsors have the administrative capability to perform effectively?

Answer: Several steps have been taken to enhance the administration of the summer program. The steps taken include changes in regulations and an expansion of the grant application requirements that specifically focus on this area. A monitoring guide is being developed which will (a) serve as a checklist to strengthen regional monitoring activities, and (b) also serve as a source document for evaluation and assessment.

Administrative provisions of the regulations have been tightened to require, in the selction of subgrantees, that strong consideration be given to previous performance, financial management capability, qualifications and background of persons with operational and fiscal accountability, provisions for adequate training of personnel, and performance under other Federal programs.

Question: Has labor taken any action to monitor each project within the first few weeks of its existence to make sure that the established administrative procedures are being followed?

Answer: The regulations require that prime sponsors establish monitoring procedures to insure adherence to the terms and conditions of subgrants and contracts.

The Program management provisions (Sec. 680.209) (f) require their contractors or subrecipients to: (1) Have supervisory and operational personnel for monitoring each site to which participants are assigned; and (3) Train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring.

Also, "Each prime sponsor shall: ... (h) Visit worksites of each contractor or subrecipient on a sample basis during the first haif of the summer program ..." We anticipate that Federal staff will coordinate monitoring visits within 3 weeks of the startup of the SYEP in Fiscal Year 1979.

YOUNG ADULT CONSERVATION CORPS

Question: If you're looking to make a big cut, why don't you make a bigger reduction in the Young Adult Conservation Corps?

of all the youth programs, that one has the highest unit cost ($10,400) and only 40.6 percent of the participants are disadvantaged.

Answer: The administration budget request for the YACC program in Fiscal Year 1980 is $166,469,000 in new budget authority, and estimates outlays at $153,270,000. The outlay level is half the Fiscal Year 1979 level of estimated outlays of $306,500,000. In addition, the years of service projected for FY 1980 are estimated at 14,600, or half of the FY 1979 years of service estimated at 29,200.

The FY 1980 budget authority request level is $50,431,000 less than the new budget authority available under the present continuing resolution for FY 1979 of $216,900,000. The unit cost is projected to be $10,500 in both FY 1979 and FY 1980.

The high unit cost of $10,500 is attributable to a variety of cost factors which are unique to the Young Adult Conservation Corps. Because of the scope and magnitude of implementing a totally new effort within two Federal agencies (the Departments of Interior/Agriculture) involving staffing, equipment, supplies, vehicles, and so on, the start-up costs were a significant factor impacting on the overall unit cost. Another contributing factor to the high unit cost is that 25% of the program is devoted to residential facilities which require higher overhead costs in terms of; facility construction or rehabilitation and maintenance; a number of support services which are required by a residential environment; and a staff/enrollee participant ratio that is significantly higher than that of a non-residential program.

Unlike other Youth programs that were under Public Law 95-93 (Youth Employment Demonstration Projects Act - August 1977) the Young Adult Conservation Corps was not implemented through the network of prime sponsors already established under CETA. Congress mandated that the program was to be implemented and operated by the Departments of Interior and Agriculture. This caused the creation of a totally new administrative staff at the National, Regional and local level. The high startup cost coupled with the creation a totally new delivery system were major factors in the unit cost of $10,500.

In regard to the percent of disadvantaged (40%) persons involved in the YACC program it must be borne in mind that Young Adult Conservation Corps was never intended to be a targeted program. Congress specified this in the legislation under Section 808(b)

"The Corps shall be open to youth from all parts of

the country of both sexes and youth of all social, economic, and racial classifications."

(the eligibility criteria - unemployed, etc., have no bearing here).

Further, the Act, under Section 804(a), gives USDA/USDI the responsibility for the location of each residential and non-residential center. The location of these has been largely based upon the areas of the country in which conservation work is needed. The nature of the work to be done places it in rural and/or remote areas, away from heavily populated areas where the greatest numbers of disadvantaged youth reside.

RISING UNEMPLOYMENT

Question: I noted the Department is projecting an unemployment level of 6.2 percent in fiscal 1980. Isn't this somewhat unrealistic in view of possible severe shortages of oil and the threat of a recession sometime this year?

Answer: The Department does not make its own projection of unemployment rates but rather uses the official projected rates supplied by the Council of Economic Advisors (CEA), the Treasury Department and the Office of Management and Budget (OMB). Any questions regarding alternative assumptions or the impact of outside forces upon the path of economy should be addressed to the CEA or OMB.

Question: What level of unemployment do you realistically see in the next year or two?

Answer: The CEA makes projections for several years in addition to the budget year; for fiscal years 1980 - 1982 they are as follows:

	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Annual
1980	6.2	6.3	6.2	6.2	6.2
1981	6.2	6.0	5.8	5.6	5.9
1982	5.4	5.2	5.0	4.8	5.1

Question: What should we be doing about it, if anything?

Answer: The Department tries to anticipate possible impacts on the UI system resulting from different economic scenarios. However, at this time the existing system should be able to adequately deal with some variation from the projected rate of 6.2%.

REORGANIZATION OF EMPLOYMENT AND TRAINING ADMINISTRATION

Question: In a related matter, Mr. Secretary, I have heard informally from several sources that your Department is considering an internal reorganization of the Employment and Training Administration which administers programs for older workers employment, American Indians, and migrant workers. Can you tell

me of your plans for future administration of these programs and which, if any, will be transferred to other agencies.

Answer: Assistant Secretary Green recently prepared a proposal for reorganizing the Employment and Training Administration (ETA). This proposal is now being examined by Under Secretary Brown and by Mr. Al Zuck, our Assistant Secretary for Administration and Management. I have been told that the proposal would put the responsibility for the programs in question under the auspices of a different executive-level office in ETA's national headquarters, but that this would have no disruptive effect on the current administration of the programs. I have a particular interest in all three of these programs, and I would like to assure you that the arrangements for their administration will receive my personal attention. As to the transfer of these programs to other agencies, there are none contemplated in the context of Assistant Secretary Green's proposal. However, the Department of Labor has agreed that the HEP/CAMP component of the migrant programs should be transferred to the proposed Department of Education.

Question: Please detail the specifics of how you are reorganizing the national and regional offices of the Employment and Training Administration.

How will this reorganization affect your existing appropriation structure, by activity -- as well as your Fiscal 1980 request?

Answer: The specifics of the reorganization within the Employment and Training Administration have not been finalized at this time. Currently, various options are under consideration.

COMMUNITY-BASED ORGANIZATIONS

Question: I note you are planning to cut CETA national programs by some $44 million from the Fiscal Year 1979 level. It is my understanding that this could result in a cutback for such community-based organizations as OIC, Jobs for Progress (SER) and the National Urban League. Organizations such as OIC do an excellent job and it would be a mistake, in my view, to reduce the funds going to such groups. Will there be a cut and, if so, why?

Answer: I understand that Department of Labor staff earlier provided the committee with tables and charts showing how the cut in CETA national programs would affect the various types of activities and projects included in this category. I also understand that these charts and tables indicated that the cuts would be inflicted mainly in our minority group skill training programs, promotion and development programs, and in our assistance to the national headquarters of the community-based organizations you have named. I would like to explain that I do not regard the charts and tables in question as expressing the Department's final position as to continue support for these particular program categories. I have asked the Employment and Training Administration for a detailed report concerning the particular programs; and I feel confident in assuring you that they will be

funded at viable levels in Fiscal Year 1980.

CETA - VOCATIONAL EDUCATION

Question: The committee is constantly receiving complaints about the lack of cooperation between CETA prime sponsors and vocational education institutions. The CETA people blame the vocational education people who, in turn, blame the CETA people. Whatever the situation, it appears that there is little cooperation between CETA programs and vocational education programs.

What are you doing to help provide closer cooperation and cordination between CETA and vocational education?

Answer: In the implementation of the reauthorized CETA, ETA staff have to consider comments in the drafting of regulations which will afford greater cooperation and coordination in CETA and voc ed programs. Meetings have been held to specifically consider such concerns. ETA staff have also worked with organizations such as the American Vocational Association to promote such cooperation.

Question: Does HEW have a formal, established mechanism to work with the Department of Labor to insure that CETA and vocational education programs are better coordinated at the Federal, State and local levels.

Answer: HEW and DOL are developing closer working relationships; with specific focus on CETA regulations presently. We expect that such present arrangements will be strengthened in the future.

Question: Are you currently working with HEW to provide for efficient implementation and operation of the funding setaside for vocational education in the new CETA authorizing legislation?

Answer: As indicated, DOL and HEW are working together on such provisions.

LABOR PROGRAMS FOR VETERANS

Question: There has been a series of recent articles alleging a reduced Labor Department commitment to services for veterans and a critical GAO Report.

How will Labor Department services for veterans in Fiscal Year 1980 compare with Fiscal 1979 -- particularly for disabled Vietnam-era veterans?

Answer: We expect that services to veterans will decline moderately during Fiscal Year 1980. This decline will be attributable to two factors. First, the Disabled Veterans Outreach Program (DVOP) will be in its first year of a phasing down period from its present 2,000 position level. Secondly, we expect less participation by veteran applicants in CETA programs. This will occur because of the stringent requirements that veterans meet the economically disadvantaged criteria before

they can be provided employment and training assistance.

ASSISTANT SECRETARY FOR VETERANS AFFAIRS

Question: Do you favor legislation to upgrade the office of Assistant Secretary for Veterans Affairs?

Answer: The Department would not be supportive of such legislation. We would point out that upon the confirmation of the first Deputy Assistant Secretary for Veterans Employment (DASVE), a position which was established by legislation, the Department administratively established the Veterans Employment Service, the agency through which the DASVE was to function, as a separate entity within the Employment and Training Administration. This action was considered highly appropriate as it located the DASVE within the same Administration (ETA) as the DOLs major delivery systems on a coordinate level with the Administrators of those systems.

VETERANS EMPLOYMENT SERVICE

Question: What will be the impact of cutting the Veterans Employment Service budget from $6,570,000 down to $6,125,000?

Answer: The result of this budget cut will be the elimination of the 52 Federal employee secretarial positions in the Veterans Employment Service field staff. It will impact at the State level to the extent that directory assistance and clearing house activities for veterans will be curtailed; coordination of inter-agency efforts will be hampered; preparation of formal reports, evaluations, and studies will be reduced; and increased training and supervision of secretarial support functions will be required.

EMPLOYMENT OF THE HANDICAPPED

Question: Last fall Congress authorized $50 million for Fiscal Year 1980 under Title VI of the Rehabilitation Act for a new Labor Department program of "Employment Opportunities for Handicapped Individuals". Why is there no budget request to implement this legislation?

Answer: No funding was requested under this specific title of the Act due to the austere budget proposed by the President and due to the fact funds are available under the Comprehensive Employment and Training Act for the handicapped.

Question: How many handicapped individuals are currently being served through CETA programs, and what number do you estimate will be served in Fiscal 1980?

Answer: During Fiscal Year 1978, approximately 4.4 million persons were served in all titles of CETA. About 3.7 percent or 168,000 of these participants were indicated as handicapped. In the three major titles of CETA, Titles I, II, and VI, both the percent and number of handicapped participants has increased each year of CETA.

HANDICAPPED PARTICIPANTS

CETA Titles I, II, and VI

Fiscal Year	Number	Percent of Total
1978	119,300	4.7
1977	90,160	4.1
1976	85,710	3.7
1975	53,600	3.6

In Fiscal Year 1980, CETA is expected to serve about 4,125,000 participants in all titles. The increasing trend in serving handicapped persons indicates that about four percent or 165,000 will be handicapped. This number is very close to the number served in Fiscal Year 1978 when the public service employment programs were at their peak.

SUBCOMMITTEE RECESS

Senator EAGLETON. This will conclude today's hearings. The next hearing of the Senate subcommittee will be Monday at 2:30 p.m. And we will hear from Secretary Califano.

[Whereupon, at 1:10 p.m., Friday, February 23, the subcommittee was recessed, to reconvene at the call of the Chair.]

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